



County of Los Angeles

CHIEF ADMINISTRATIVE OFFICE

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January 18, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

CHIEF ADMINISTRATIVE OFFICE REPORT CONCERNING THE COUNTY OF LOS ANGELES WORKERS' COMPENSATION PROGRAM

On December 7, 2004, by Motion of Supervisor Gloria Molina, your Board directed the Chief Administrative Office (CAO) to provide a report on:

- a plan to track the effectiveness of the County of Los Angeles' (County) effort to reduce workers' compensation costs;
- a statistical analysis comparing the County to other State of California (California) public entities;
- a plan to ensure action is taken by County departments to mitigate workers' compensation incidents and claims; and,
- a methodology to assure the efforts listed in the CAO's November 19, 2004, workers' compensation report will be implemented, including a list of those responsible for implementation, a monitoring process and measurements.

During December 2004, Supervisor Gloria Molina directed the CAO to provide a report on the influence of California Labor Code 4850 and County Service Connected Disability Retirements on the County's workers' compensation program.

Each Supervisor
January 18, 2005
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On January 4, 2005, by Motion of Supervisor Gloria Molina, your Board directed the CAO to expand its report concerning the influence of California Labor Code 4850 and County Service Corrected Disability Retirements by including a timeline for the implementation of proposed reforms contained in the CAO's report.

The attached report addresses the specific issues contained in Supervisor Gloria Molina's directive and the Board of Supervisor's motions. The CAO's report is comprised of three attachments:

- Attachment A is a report concerning the *Status of the County of Los Angeles Workers' Compensation Program, January 2005.*
- Attachment B is the *Report on the Influence of the State of California Labor Code 4850 and County of Los Angeles Service Connected Disability Retirements on the County of Los Angeles Workers' Compensation Program, January 2005.*
- Attachment C is the *Second Response to the Los Angeles County Citizens' Economy and Efficiency Commission's Study Entitled, "Addressing Workers' Compensation Fraud in Los Angeles County, September 2004."*

If you have any questions regarding this report, please call me or Rocky Armfield of my staff at (213) 351-5346.

DEJ:SRH
RAA:mtm

Attachments

c: Executive Officer, Board of Supervisors
County Counsel



CHIEF ADMINISTRATIVE OFFICE

THE STATUS OF THE COUNTY OF LOS ANGELES WORKERS' COMPENSATION PROGRAM, JANUARY 2005

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JANUARY 2005

I. EXECUTIVE SUMMARY

FY 2003-2004 Decrease in Workers' Compensation Expense

The annual escalation rate in the cost of the County of Los Angeles (County) workers' compensation expense began to dramatically decrease in the past two fiscal years. The work of County staff and impact of the 2003 and 2004 State of California (California) workers' compensation reforms enabled the County to reduce the County's actual FY 2003-04 workers' compensation expense to \$324.0 million from budgeted \$352.0 million. Additionally, for the FY 2001-02 through FY 2003-04 period the number of new County workers' compensation claims reported each year decreased from 12,370 to 11,490, generating a 3.6% annualized decrease.

County's FY 2003-04 Workers' Compensation Budget:

<u>Fiscal Year</u>	<u>Original Budget</u>	<u>Actual Paid</u>	<u>Savings</u>
FY 2003-04	\$352.0 million	\$324.0 million	\$28.0 million

Projected Decrease in Future Expenditures through FY 2007-2008:

In 2003, based upon the County's historical workers' compensation expense and input from the County's workers' compensation actuary, the following annual workers' compensation expense budgets were projected. However, in response to the identified decrease in workers' compensation expenditures, in 2004 the CAO adjusted its FY 2004-05 through FY 2007-08 budget projections as follows:

<u>Fiscal Year</u>	<u>2003 Original Budget Forecast</u>	<u>2004 Adjusted Forecast</u>	<u>Projected Decrease</u>
FY 2004-05	\$414.4 million	\$350.0 million	\$64.4 million
FY 2005-06	\$506.9 million	\$380.0 million	\$126.9 million
FY 2006-07	\$608.3 million	\$410.0 million	\$198.3 million
FY 2007-08	\$730.0 million	\$440.0 million	\$290.0 million

The projected decreases in future expenditures reflect:

- Implementation, to the fullest extent possible, of the 2003 and 2004 California workers' compensation reforms,
- Development and implementation of Loss Control and Prevention Plans by all County departments.

- Systematic measurement and reporting of the County's workers' compensation and Labor Code 4850 results, by department, to provide data for departments to use to establish loss prevention goals and measure progress.
- Incorporation of a risk management goal, specific to each department, as a Management Appraisal and Performance Plan goal.
- Implementation of Board of Supervisors (Board) mandated Return-to-Work program for all departments.
- Adoption of improved claim management procedures.

Labor Code 4850 and Service Connected Disability Retirements

This report begins the comparison to other California public entities of the County's workers' compensation, Labor Code (LC) 4850 and Service Connected Disability Retirements (SCDR) experience. Additionally, it contains proposed recommendations to decrease the County's LC 4850 and SCDR results. Improving LC 4850 results should also decrease the County's workers' compensation expense. The CAO estimates for every dollar incurred paying LC 4850 benefits, two dollars of workers' compensation expense has, or will be, incurred to substantiate or support such benefits.

The CAO concentrated its LC 4850 and SCDR analysis upon the differences between the County and other public entity approaches to LC 4850 and SCDR. The CAO especially focused upon the City of Los Angeles' comparable Injured on Duty Program and SCDR policies and procedures. Based on the results of its analysis, the CAO recommends that:

A task force be formed to more thoroughly study the County's approach to LC 4850 and SCDR, and its impact upon the County's fiscal condition. The task force would develop and help implement a Countywide strategic initiative addressing LC 4850 and SCDRs. The initiative would thereafter be a guide for the future application of LC 4850 and SCDR throughout the County. The task force would also make recommendations for changes in California law and/or negotiation of Memoranda of Understanding necessary to maximize cost reductions. Task force would be comprised of staff from the CAO Risk Management, Compensation, Employee Relations and Intergovernmental Relations, Auditor-Controller (Auditor), County Counsel (Counsel), key departments, and the Los Angeles County Employees Retirement Association.

About the Report

This report describes the CAO's plan to implement specific measures to facilitate reducing the cost of workers' compensation claims, and the methodology utilized to analyze the County's loss experience and evaluate the effectiveness of risk management efforts. To gain an understanding of the scope of that effort, information has been included concerning the California workers' compensation

environment, workers' compensation cost drivers, County workers' compensation statistic data, by department, and the CAO's first benchmarking study.

CAO Response to Issues Raised by the Board on December 7, 2004

1. Track the effectiveness of the County's effort to reduce workers' compensation costs

The CAO will record the effectiveness of County departments' efforts to reduce workers' compensation costs by **producing quarterly reports displaying each department's workers' compensation claim frequency rate and claim severity rate.**

The CAO will continue to develop and make recommendations to assist departments reduce their workers' compensation costs. The CAO will assist departments in the implementation of the CAO's recommendations, monitor the department results and make further recommendations as needed.

The CAO's publication of Countywide results will be included in the CAO's first annual risk management report scheduled for distribution in early 2005.

2. Statistical analysis of how the County compares to other California entities in reducing workers' compensation costs

The CAO is conducting its first benchmark study of workers' compensation losses and exposures and is obtaining data from a number of California public entities. As of the writing of this report, some of the entities were unable to provide adequate historical information. Our preliminary analysis follows, and the CAO will continue its effort to obtain and analyze data for prior years from those entities. However, the CAO successfully obtained meaningful data from six other entities.

Data will be updated periodically, and multi-year comparisons to other California public entities will be included in the CAO's annual Risk Management Report.

Three primary difficulties exist when comparing County data with that of other entities:

- Each public entity possesses a different distribution of exposures and comparable employees by specific departments. Such differentials will cause more claims to be recorded for those entities with a larger number of employees in inherently hazardous work environments; for example, in the Fire District and the Sheriff's Department.
- Differences in historical methods of funding workers' compensation expenses will reflect higher claim frequency and severity rates for entities that have been self-insured for longer time periods. Active self-insured claims continue to incur expenses while fully insured claims do not. Those entities that purchased primary

or excess insurance in the past may not be incurring additional expense for their older claims.

- Comparative data are unavailable from a single source within the public entities; and data are inconsistently maintained within each public entity.

The FY 2003-04 data reflect that the County is in the middle range of claim frequency; but, the County possesses the highest cost per employee relative to the entities listed below. This higher cost per employee, we believe, is attributable to two factors: (1) the County incurs more severe injuries resulting from a more hazardous work environment, (2) the County possesses a large number of old self-insured claims, particularly for safety employees. Approximately 50% of all the County's workers' compensation medical costs arise from claims filed more than four years ago.

Entity	Claims per 100 Employees (FY 2003-2004)	Workers' Compensation Expenses per Employee (1) (FY 2003-2004)
County of Orange	7.5	\$1,114
County of San Diego (excluding Fire)*	10.6	\$1,174
County of Los Angeles	12.6	\$3,564
City of Ventura	12.8	\$2,654
City and County of San Francisco	16.8	\$1,970
County of Sacramento	17.4	\$1,472
City of Los Angeles	22.8	\$3,417

(1) Does not include salary continuation or LC 4850 benefits, except for the County of Orange

Increases in workers' compensation expense experienced by most of the following entities demonstrate the nature of the workers' compensation problem in California public entities.

Entity	Two Year Increase in Workers' Compensation Expenses FY 2001-2002 through FY 2003-2004 (1)
City of Ventura	-15.7%
County of San Diego (excluding Fire) (2)	6.8%
City of Los Angeles	19.0%
City and County of San Francisco	23.4%
County of Sacramento (excluding Fire) (2)	25.4%
County of Los Angeles	25.9%
County of Orange (excluding Fire) (2)	33.8%

(1) The County incurs more severe injuries resulting from a more hazardous work environment

(2) Historical data has not yet been obtained for Fire for the Counties of Orange, Sacramento, and San Diego.

3. A plan to ensure that corrective action is taken by departments to prevent additional workers' compensation incidents and claims.

Development and implementation of Loss Control and Prevention Plans are each department's responsibility. In 2003, each Department designated a Risk Management Coordinator responsible to coordinate all department risk management activities. The CAO's training of the Risk Management Coordinators, safety personnel, and Return-to-Work Coordinators, will continue to stress the importance of conducting thorough accident investigations and developing and implementing Loss Control and Prevention Plans.

During 2005, the CAO will recommend each department establish an Accident Review Committee and effectiveness to review accident investigation reports and to monitor the implementation of its Loss Control and Prevention Plans. The CAO will periodically assess the effectiveness of the implementation of Loss Control and Prevention Plans in the departments through the CAO's monitoring program. The results of these CAO assessments will be included in each department's *Risk and Needs Assessment* and in the CAO's annual Risk Management Report.

4. A work plan demonstrating how each of the efforts listed in the CAO's November 19, 2004, workers' compensation report, including a list of those responsible for implementation and how the County effort will be monitored.

The work plan regarding the CAO's November 19, 2004, report is included in Attachment C.

The original report by the County of Los Angeles Citizens' Economy and Efficiency Commission's study lists 46 recommendations of which 36, 78.3%, were implemented or partially implemented by County staff prior to the Commission's study.

Twenty-two, 48%, of the 46 Commission recommendations have been such an on-going part of the County's workers' compensation program that they need not be commented upon again in this follow-up report. Those Recommendations are 4, 5, 6, 7, 10, 15, 17, 18, 20, 21, 22, 26, 29, 32, 36, 37, 38, 39, 40, 42, 44 and 45.

The CAO does not concur with Recommendations 12, 34 and 46.

Six Commission Recommendations require further review to obtain CAO concurrence; Recommendations 9, 23, 27, 30, 31, and 33. Each Recommendation's party(ies) responsible, estimated completion date(s) and monitoring method, are listed herein.

The remaining 15 Commission Recommendations were partially implemented or in the process of implementation prior to the Commission's study, but require additional work. Each Recommendation's party(ies) responsible, estimated completion date(s) and monitoring method are listed herein. The recommendations in this last category are 1, 2, 3, 8, 11, 13, 14, 16, 19, 24, 25, 28, 35, 41, and 43.

II. STATE OF CALIFORNIA WORKERS' COMPENSATION ENVIRONMENT

The cost of workers' compensation to all State of California (California) employers increased from \$9 billion in 1995 to \$29 billion in 2003. This dramatic cost increase became an inhibitor to the state economy and threatened essential governmental services.

For over a decade, the California workers' compensation system has been very unstable. In 1995, insured employers experienced a sharp reduction in insurance premiums following state legislated deregulation of workers' compensation insurance companies. Coincidentally, this occurred at the time of the financial market's large and sustained advance. The legislated deregulation created a "premium rate war", but the large gains in insurer investment portfolios enabled insurance companies to subsidize underpriced insurance. Large workers' compensation companies were able to dramatically increase California market share by offering workers' compensation insurance at premium rates below expected losses. Data from the California Workers' Compensation Insurance Rating Bureau (WCIRB) reveal that workers' compensation losses (benefit payouts) and combined expense ratios exceeded, and until 2003 continued to exceed, 100% for California insurance companies.

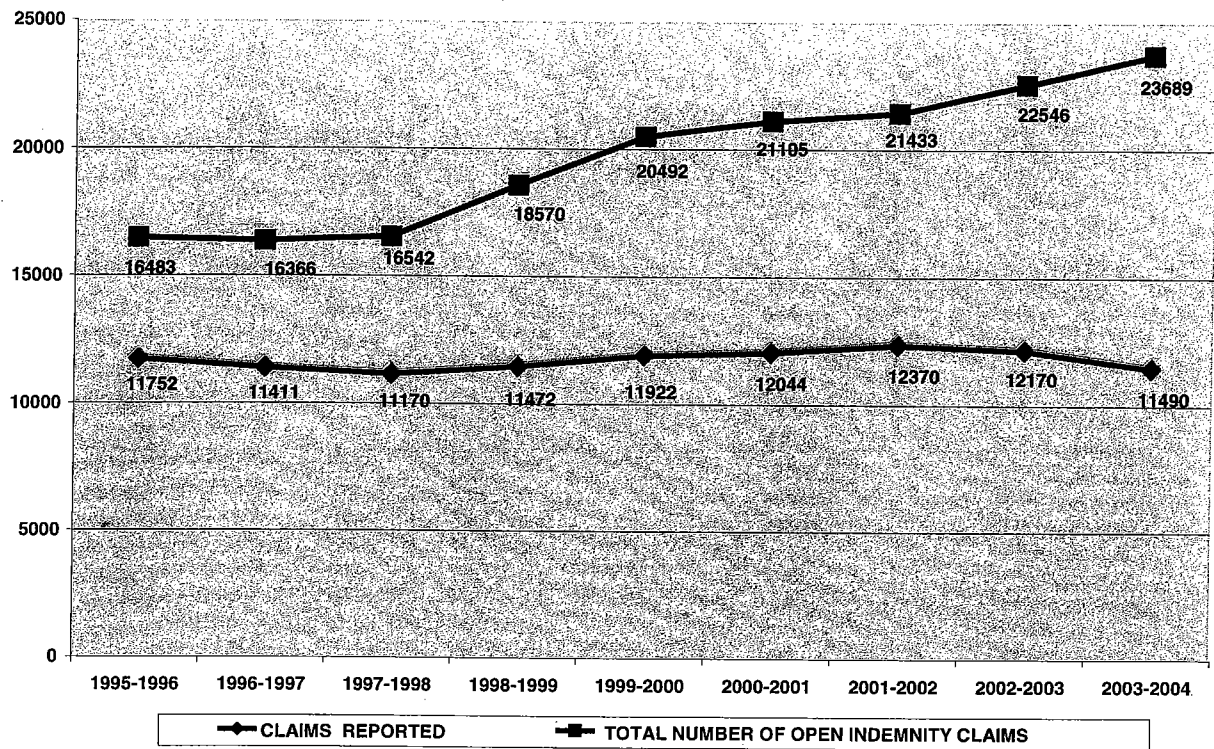
With the downturn in the economy and financial markets, the insurance companies could no longer subsidize the extremely low premiums they had been offering. According to the WCIRB, over 20 workers' compensation insurance companies have been liquidated since 2000. These insurers collectively wrote over 25% of California workers' compensation insurance in 1994. In addition, a number of insurance companies left the California market or reduced their writings as a result of decreased profitability.

California Insurance Guarantee Association (CIGA) was established in 1969 to pay claim liabilities in the event insurers became insolvent. When a workers' compensation insurance company is declared insolvent, CIGA is required to pay 100% of the benefits owed on such claims. On June 4, 2002, CIGA reported that it was in a "precarious financial condition", and had nearly exhausted its cash reserves set aside to pay workers' compensation claims.

The above mentioned uncertainty, coupled with insurance premium escalation, led CAO staff to recommend against a loss portfolio transfer until the insurance markets stabilize; that market instability continues.

Legislated "reforms" in 1994, including a treating physician presumption of correctness, created a situation in which claims now take much longer to reach finality. This lengthening in loss development resulted in larger inventories of open claims statewide. The California Workers' Compensation Institute (CWCI) studied approximately one million claims and found the average "life of a claim" between FY 1993-94 and FY 1997-98 increased 85.5%. Late development has been experienced in both insured and self-insured programs. The County's workers' compensation program, impacted by late development trends, experienced a 43% indemnity claim inventory increase from FY 1997-98 to FY 2003-04.

COUNTY OF LOS ANGELES WORKERS' COMPENSATION CLAIM INVENTORY
(source: Public Self Insurer's Annual Reports)

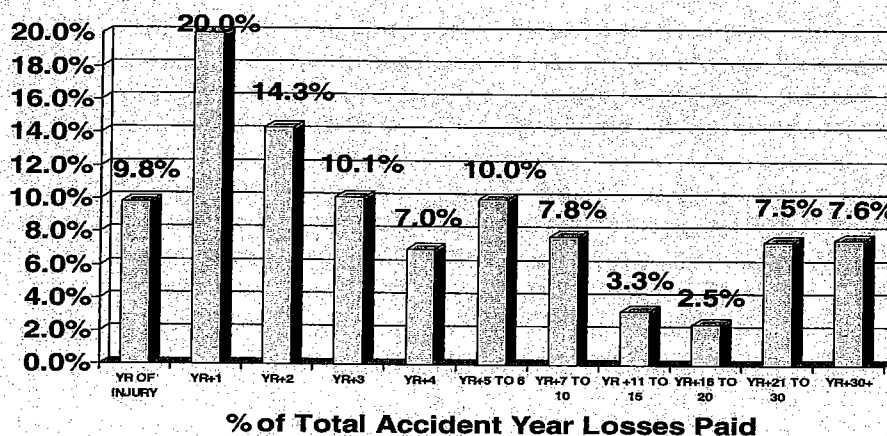


III. WORKERS' COMPENSATION COST DRIVERS

The WCIRB reported the statewide growth in average medical benefits paid per indemnity claim increased from \$12,550 in 1996 to \$28,535 in 2003 (reflects impact of AB 227, SB 228 & SB 899). This equates to a 127% increase over this period.

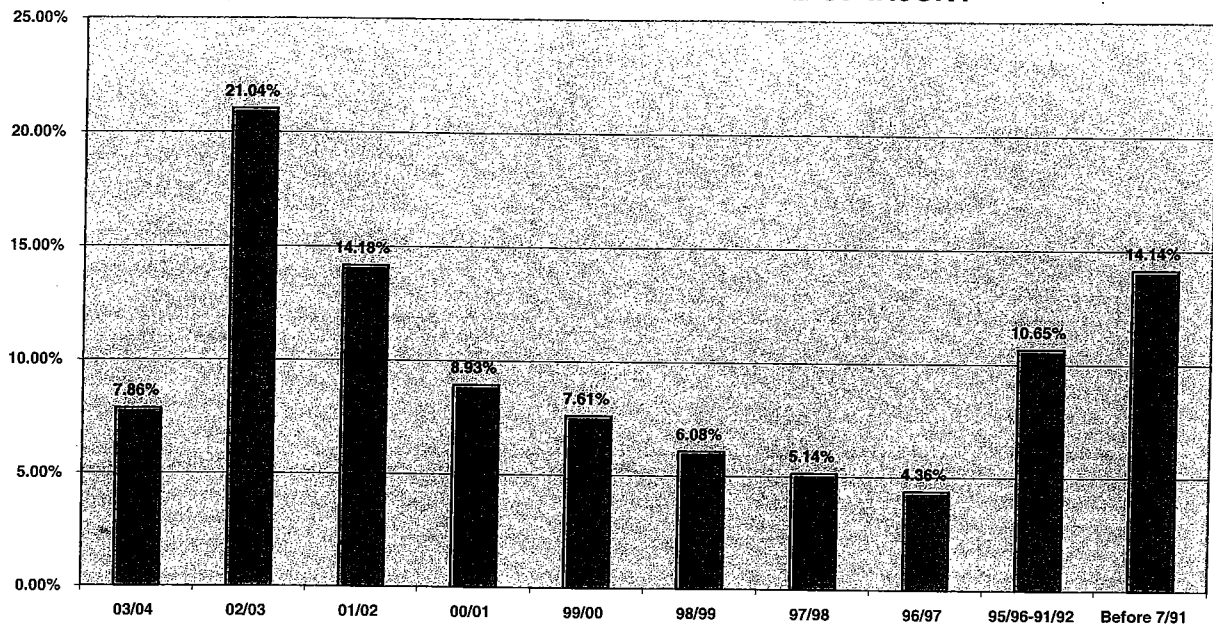
As can be expected, the County workers' compensation program experienced similar significant increases in medical payouts. Countywide annual workers' compensation medical payments, as reported on the Self-Insurance Plans Annual Report, increased from \$63,249,133 in FY 1997-98 to \$157,574,667 in FY 2003-04, an increase of 149% during this period. The following charts illustrate that, workers' compensation medical exposures have exceedingly long payout periods and medical costs have increased as a percentage of total County workers' compensation benefit payout.

SUMMARY OF MEDICAL CLAIM EXPERIENCE
DISTRIBUTION OF MEDICAL PAYMENTS FROM YEAR OF INJURY
 WCIRB DATA - JULY 1, 2003 PURE PREMIUM RATE FILING

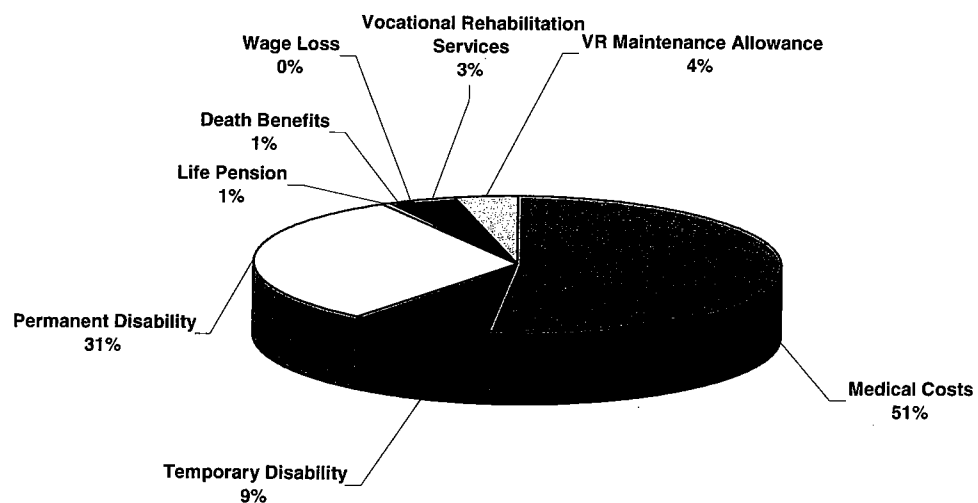


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**COUNTY OF LOS ANGELES MEDICAL COSTS
FY 2003-04
DISTRIBUTION BY DATE OF INJURY**

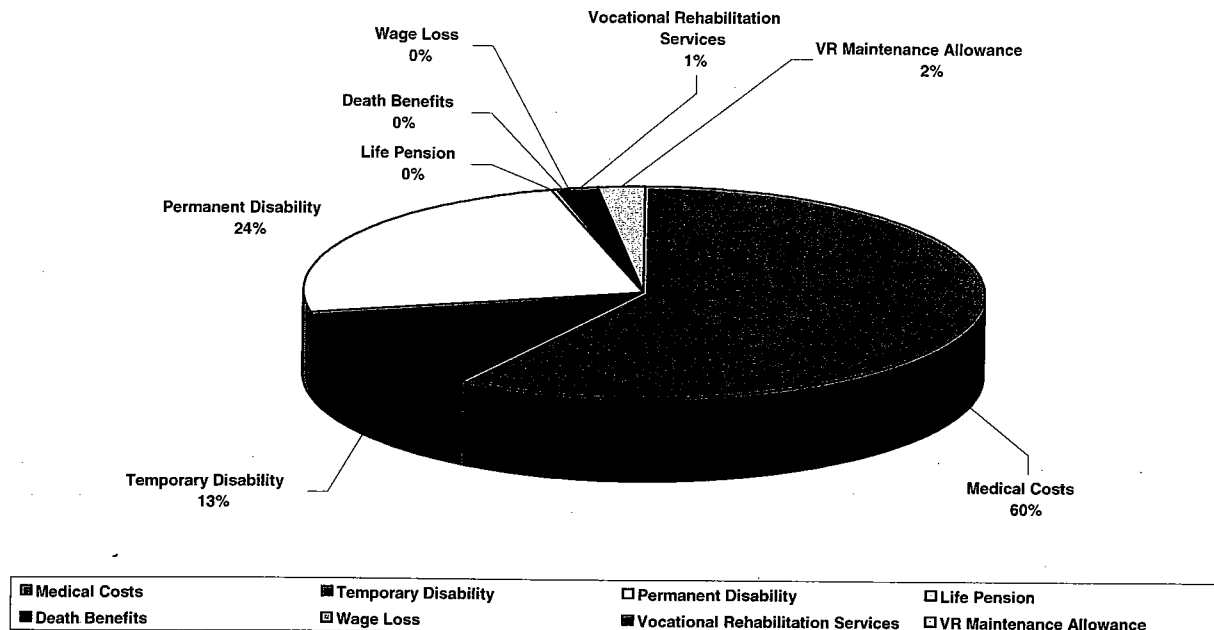


**WORKERS' COMPENSATION COSTS (IN MILLIONS) BY PAYMENT CATEGORY FY 1997/98
(SOURCE: WC PAY CATEGORY REPORT 8/31/98)**



Medical Costs	Temporary Disability	Permanent Disability	Life Pension
Death Benefits	Wage Loss	Vocational Rehabilitation Services	VR Maintenance Allowance

**WORKERS' COMPENSATION COSTS (IN MILLIONS) BY PAYMENT CATEGORY
FY 2003/04 (SOURCE: WC PAY CATEGORY REPORT 8/30/04)**



Workers' Compensation medical treatment costs were addressed in a number of studies requested by the California Commission on Health and Safety and Workers' Compensation (CHSWC). The Commission estimates that these costs are 50% to 100% higher in workers' compensation than equivalent employment based healthcare systems. These findings are summarized in the CHSWC 2001-2002 Annual Report (Pg. 62) as follows:

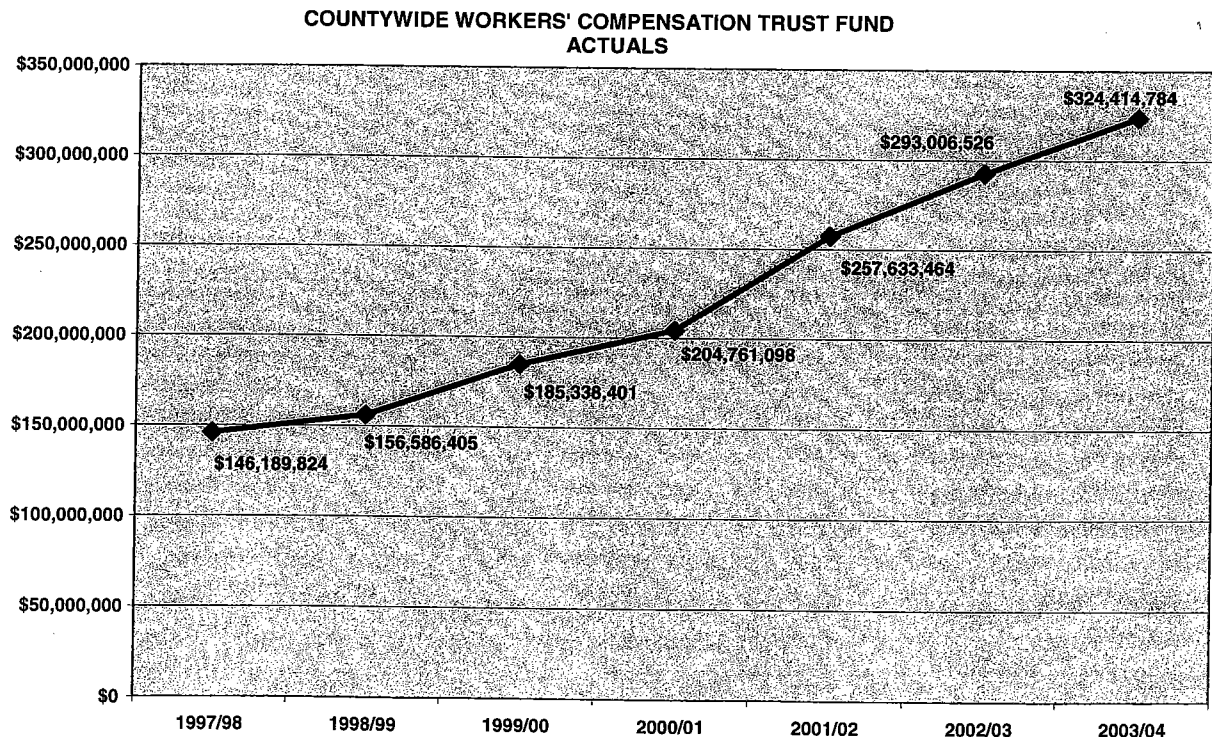
- Workers' compensation, on average, paid 50% more than Medi-Cal pharmaceuticals.
- Workers' compensation paid 40-45% more than employer health plan benefits for the same drugs, even ignoring the 5-30% rebates that large health plans may receive from pharmaceutical manufacturers.
- Across all Diagnostic Related Groups, costs arising from workers' compensation hospital admissions were 4% higher (\$26,072) compared with charges for group health admissions (\$25,047). However, paid amounts averaged 30% higher (\$9,637) for workers' compensation in-patient admissions than for group health admissions (\$7,428).
- After the adoption of the Inpatient Hospital Fee Schedule by the California Division of Workers' Compensation, paid amounts averaged 50% higher (\$12,459) for workers' compensation spine-related admissions compared with for group health spine-related admissions (\$8,280).
- Reimbursement for workers' compensation hospital admissions was significantly higher than for Medicare admissions.
- In 2002, no fee schedule existed for outpatient ambulatory surgical facility fees. The CHSWC Inpatient Hospital Fee Schedule and Outpatient Surgery

Study analyzed 14,017 outpatient surgical procedures. The researchers found that charges are highly variable for outpatient facility fees for a given procedure. According to the study, if the workers' compensation outpatient facility fees were re-priced using Medicare's Ambulatory Surgical Centers Fee Schedule, it would result in an 88% reduction off the original billed amount.

As previously mentioned, the treating physician's opinion was presumed to be correct (until recently reformed). This "presumption of correctness" was extended to disputes regarding permanent disability, medical treatment, and, in practice, temporary disability. Many system stakeholders believe this presumption greatly limited an employer's ability to impact the outcome of a workers' compensation claim. Subsequently, the presumption, coupled with corresponding legal decisions, greatly lengthened claim duration, hampered return-to-work efforts, increased medical treatment utilization, and led to higher, often unsubstantiated, permanent disability findings.

Overall, the WCIRB estimated ultimate total loss per indemnity claim, by year of accident, to be \$51,923 in calendar year 2003 (reflects impact of AB 227, SB 228 & SB 899). This represents an increase of 116% over the total loss per indemnity claim in 1995, which was estimated to be \$23,993.

The County has experienced increased Workers' Compensation Trust Fund (WCTF) payouts over the last six-years. Total payments increased from \$146,189,824 in FY 1997-98 to \$324,414,784 in FY 2003-04, a 122% increase.



On February 15, 2002, Assembly Bill 749 (Calderon) passed into law. This law mandates significant workers' compensation indemnity benefit increases over a five year period and enacts a number of structural changes. Significant provisions include:

- The maximum temporary total and permanent total weekly benefit will increase from \$490 to \$602 in 2003, \$728 in 2004, \$840 in 2005, and the greater of \$840 or the state average weekly wage in 2006, commencing January 1, 2007. Each year following 2007, the limits shall be increased by an amount equal to the percentage increase in the state average weekly wage as compared to the prior year.
- The maximum Permanent Partial Disability benefits for certain permanent disability rating intervals were increased in 2003 and 2004, and will also be increased in 2005 and 2006.
- The scheduled number of weeks for payment of permanent disability benefits will be increased in 2004.
- Benefit minimums were increased in 2003, 2004, and will increase in 2006.
- Aggregate death benefit and life pension benefit maximums will increase in 2006.
- Weekly life pension and weekly permanent total disability benefits are subject to annual cost of living adjustments beginning with injuries occurring in calendar year 2003.
- Structural changes to the workers' compensation system were enacted in AB 749, including those related to the primary treating physician presumption, outpatient and pharmaceuticals fee schedules, pharmacy networks, and vocational rehabilitation.

The CAO estimates that upon full implementation of all of the provisions of AB 749, County workers' compensation costs will increase by more than \$50 million annually.

IV. WORKERS' COMPENSATION STATISTICAL DATA BY DEPARTMENT

Listed below are five measurements utilized by the CAO to measure the County's workers' compensation results.

CURRENT COUNTY WORKERS' COMPENSATION MEASUREMENTS

Workers' Compensation Trust Fund Expense

The Workers' Compensation Trust Fund (WCTF) is comprised of Net Benefit, Net Loss, and Journal Voucher expense categories. Net Benefit Expenses include the various workers' compensation benefits paid to injured workers. Net Loss Expenses, include service fees, legal fees, investigative fees, user funding assessments, and other type of outside expenses incurred in the administration of the workers' compensation program. In-House Administrative Expenses include charges for services provided by County Counsel, CAO, and the Office of Auditor-Controller. The WCTF does not include salary continuation or LC 4850 costs.

Workers' Compensation Trust Fund % Increase

The increase of actual WCTF cost from FY 1999-00 to FY 2003-04 is represented as a percentage. This percentage increase is graphed Countywide and for the fourteen departments with the greatest WCTF costs.

Claim Frequency Rates

The claim frequency rate is the number of workers' compensation claims reported by specific year (accident year) per 100 employees. The claim frequency graph represents a three year average Countywide and by department. Department rates differ based on the make up of their employee populations; for example, departments with high proportion of Class 4, arduous, safety employees can expect higher claim frequency rates.

Claim Severity Rates

The claim severity rate is the estimated incurred cost of the claims filed in a specific fiscal year (accident year) divided by the department's payroll for the fiscal year multiplied by 100. These estimated incurred costs will increase significantly as the most recent years develop and mature. Especially for smaller departments, severity rates are subject to fluctuations because even one or two expensive claims can cause a notable increase in the departmental severity rate. The claim severity graph represents a three year average Countywide and by department.

Lost Day Rates

The lost day rate is a calculation of compensable days lost due to industrial accidents during a fiscal year, divided by the number of department employees. Compensable days lost in any given year includes days lost during that year for injuries which occurred in that year and prior years. The lost day graph represents a Countywide three year average by department. GenComp, the County's workers' compensation claims administration system, and CWTAPPS data are combined to generate the report. An ISD generated extract from the CWTAPPS file is used to determine Countywide and department employee counts.

FUTURE ADDITIONAL COUNTY WORKERS' COMPENSATION MEASUREMENTS

Listed below are three additional workers' compensation measurements that will be developed and implemented by the CAO in 2005.

Actuarially Determined Ultimate Loss Per Workers' Compensation Claim

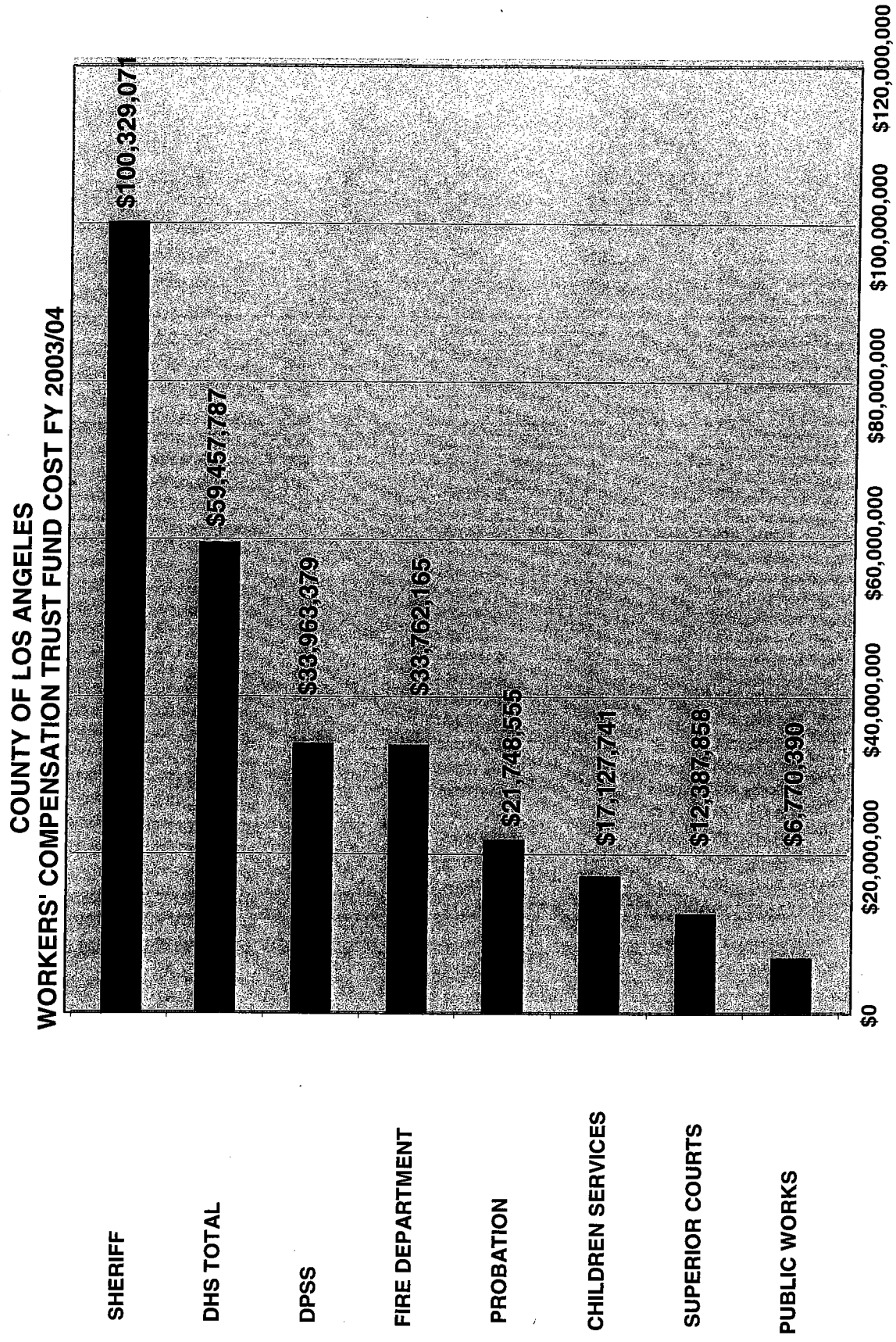
Actuarially determined ultimate costs of a County workers' compensation claim will allow meaningful benchmarking with data provided by the WCIRB. Beginning in 2005, the CAO will require an actuarial analysis of the ultimate total cost per workers' compensation claim for the preceding five years.

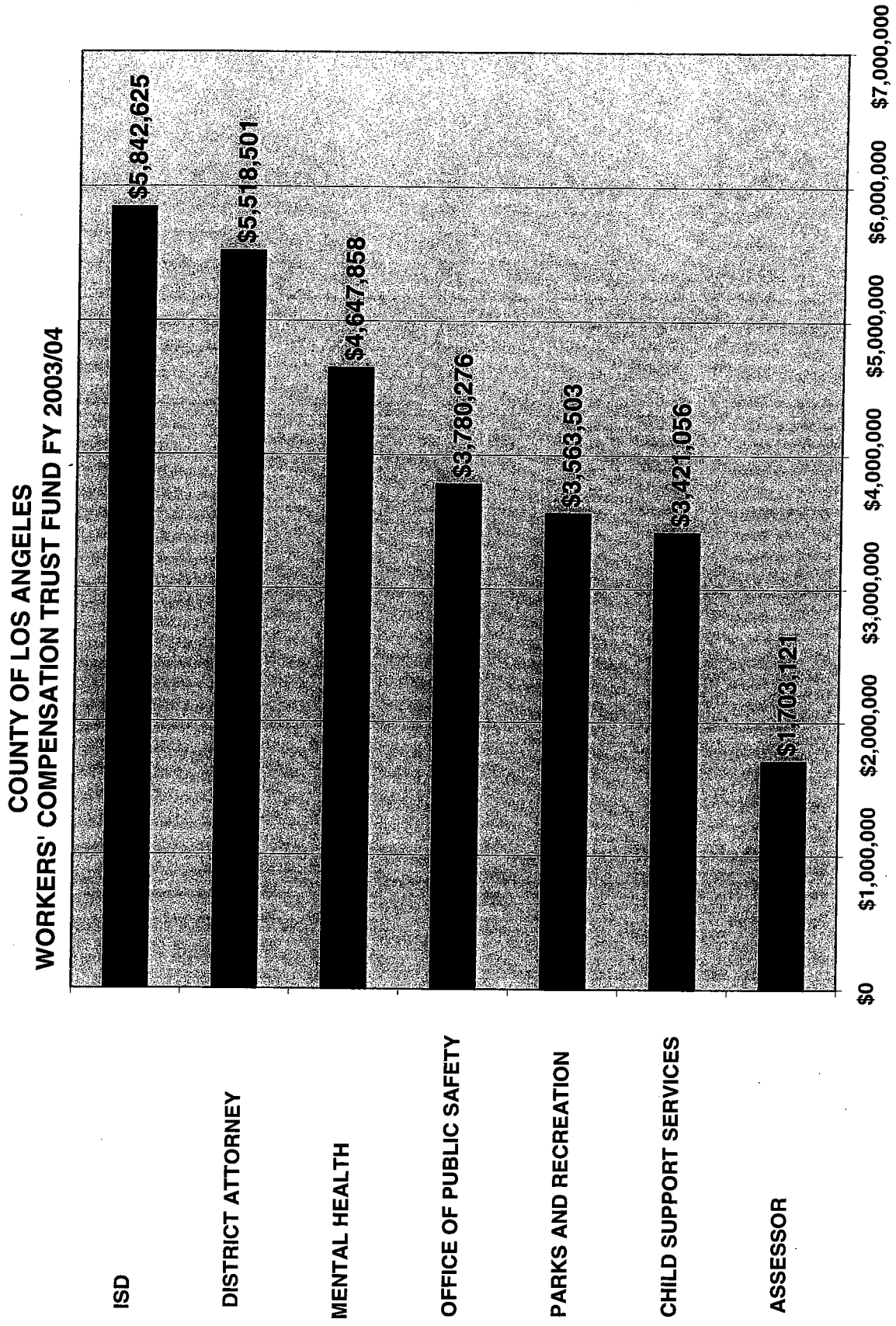
Medical Costs By International Classification Disease Codes (ICD)

The indexing of workers' compensation medical costs by ICD codes measure the costs and utilization factors attributed to the types of injuries and illnesses covered under the workers' compensation program.

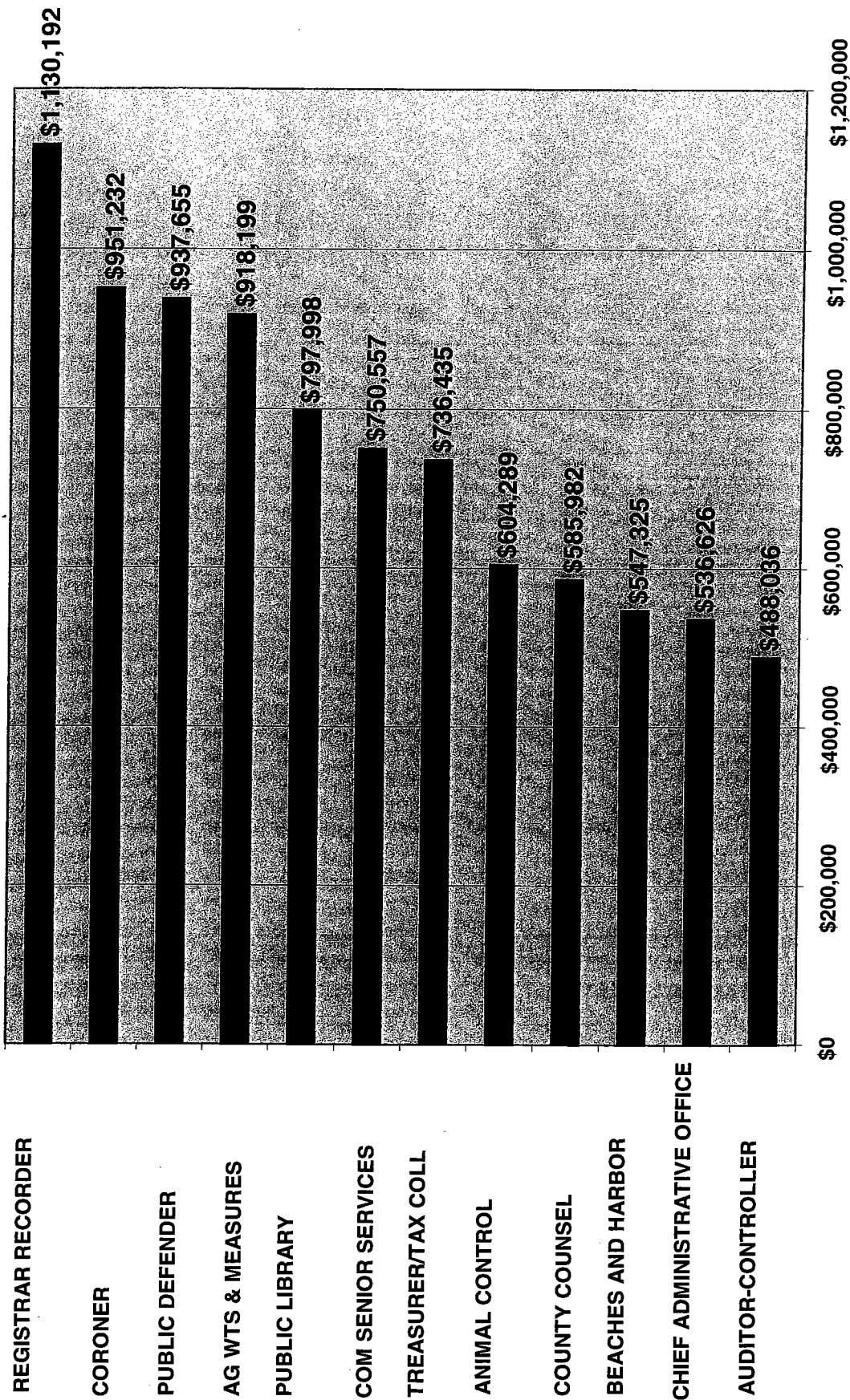
Permanent Disability Rating and Dollar Value Awarded by the Workers' Compensation Appeals Board

Compiling this data will enable the CAO to determine the impact of the newly revised California Permanent Disability Rating Schedule on County workers' compensation program costs.

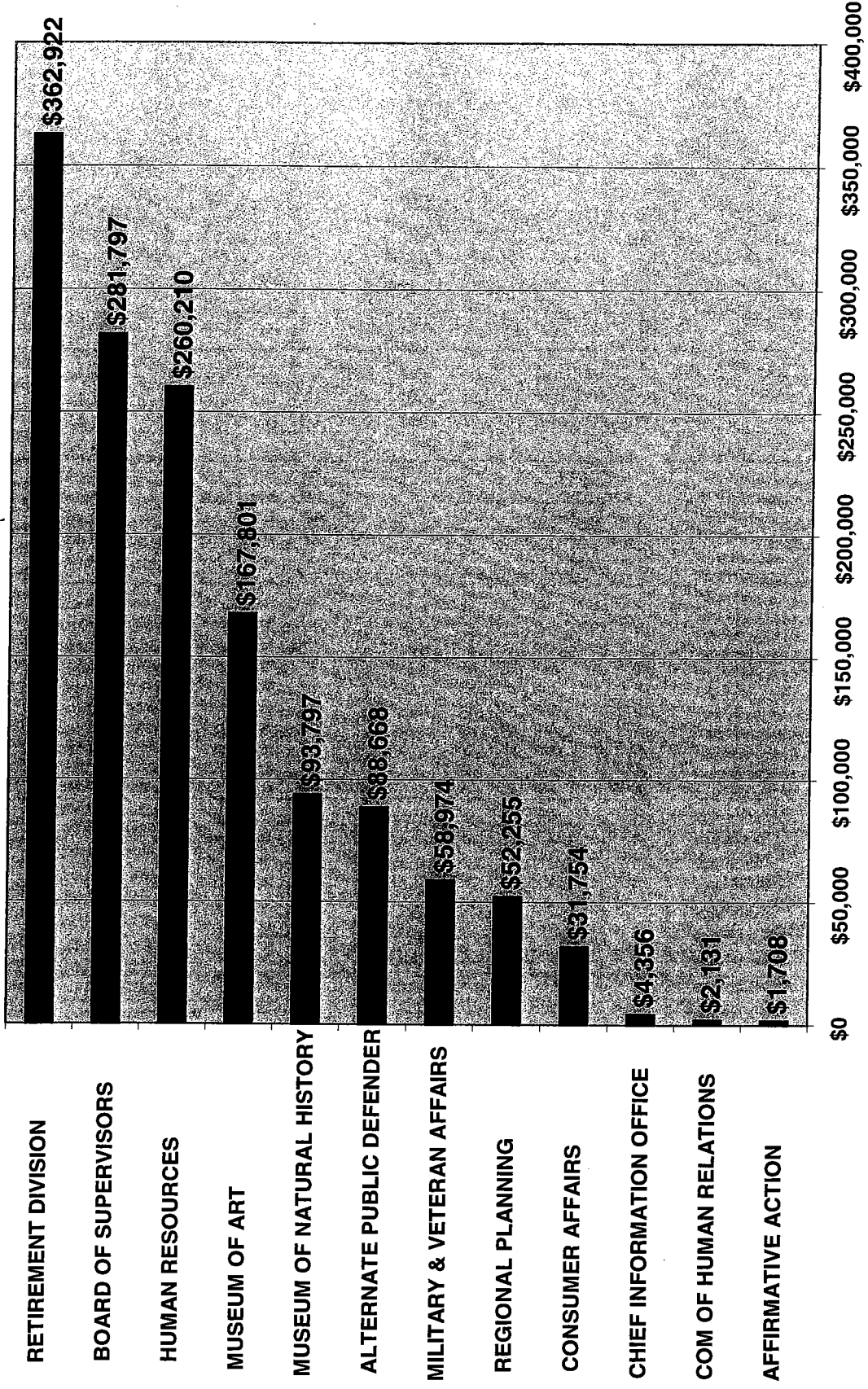


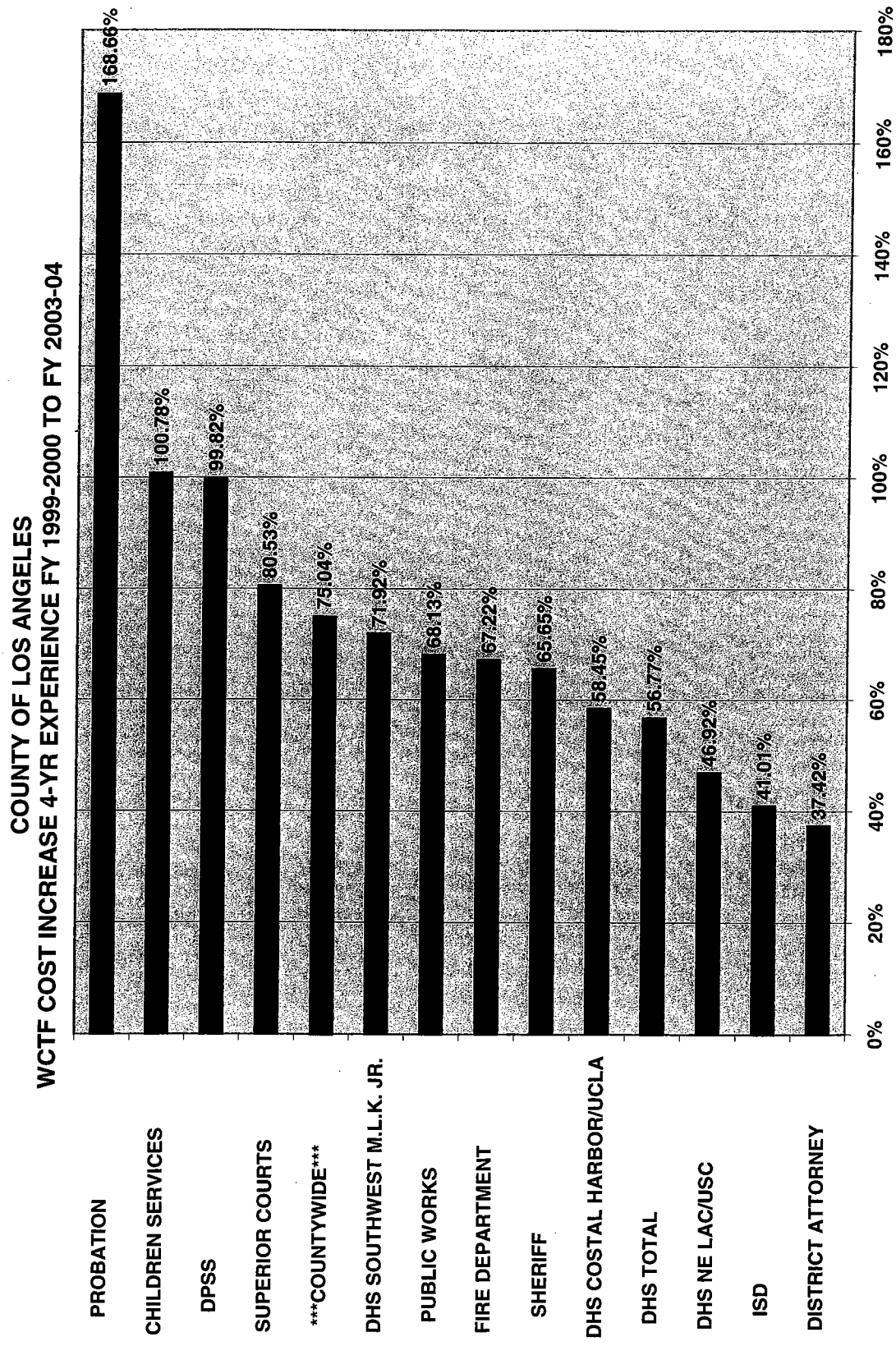


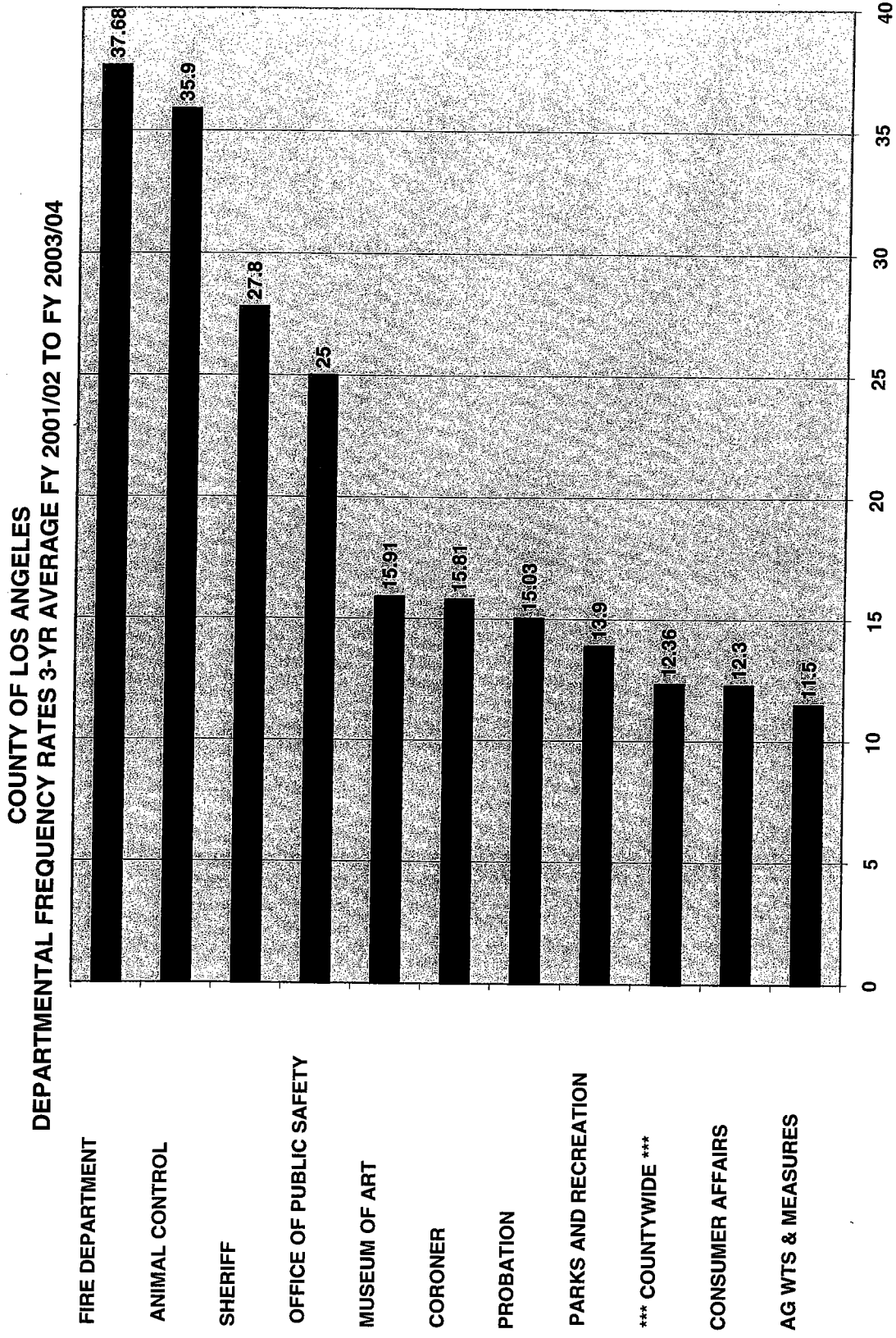
**COUNTY OF LOS ANGELES
WORKERS' COMPENSATION TRUST FUND COSTS FY 2003/04**

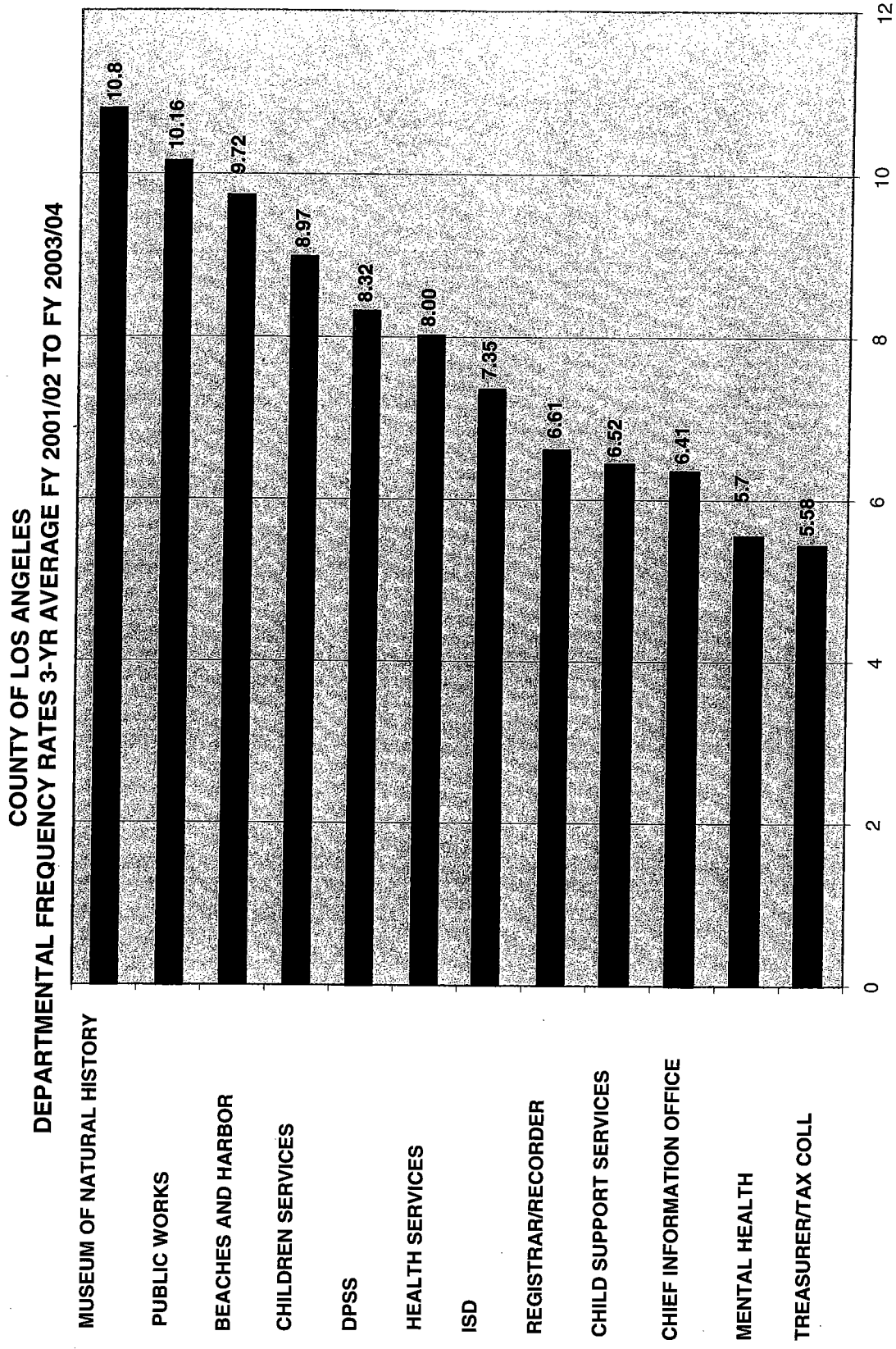


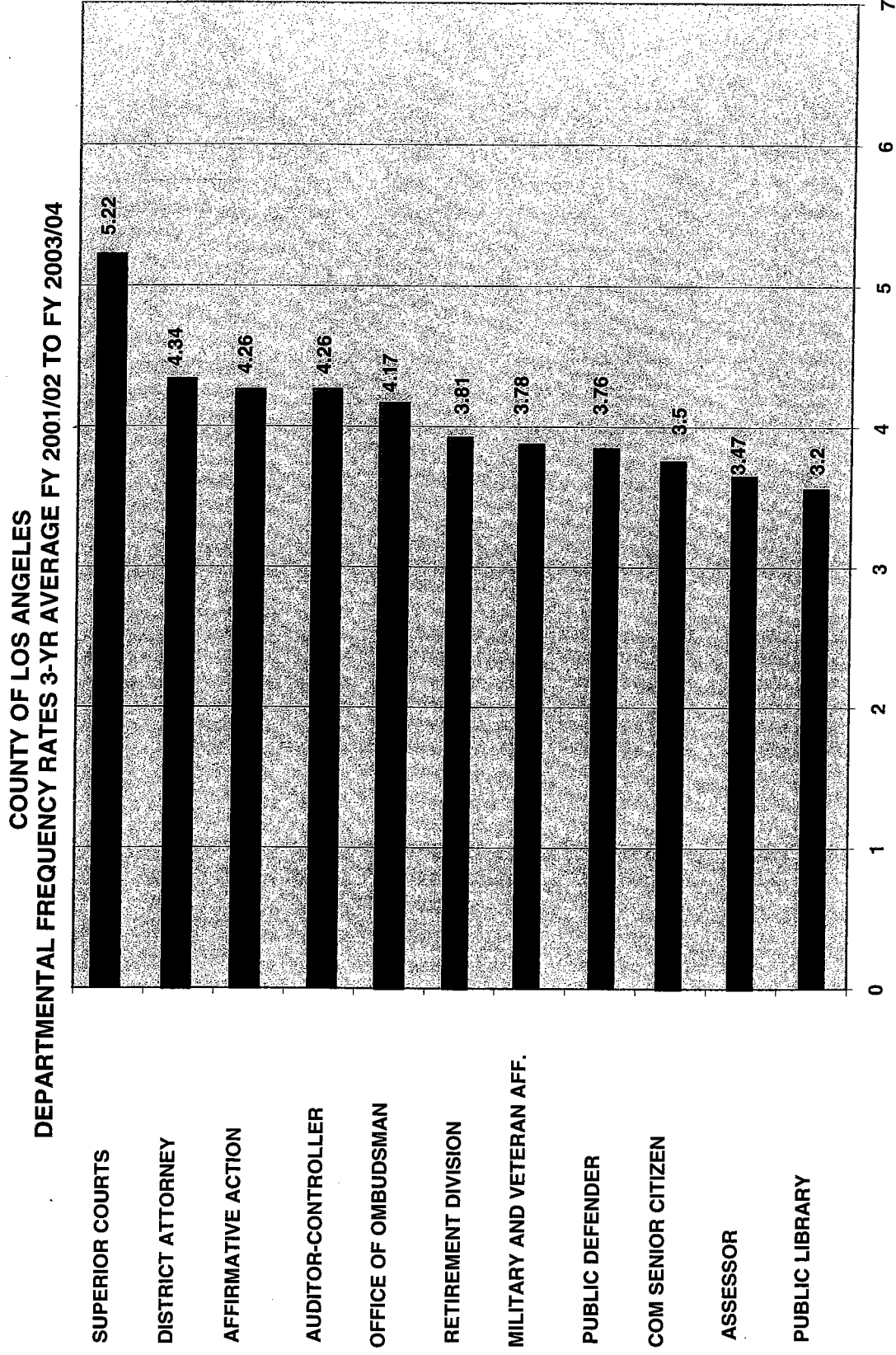
**COUNTY OF LOS ANGELES
WORKERS' COMPENSATION TRUST FUND COSTS FY 2003/04**



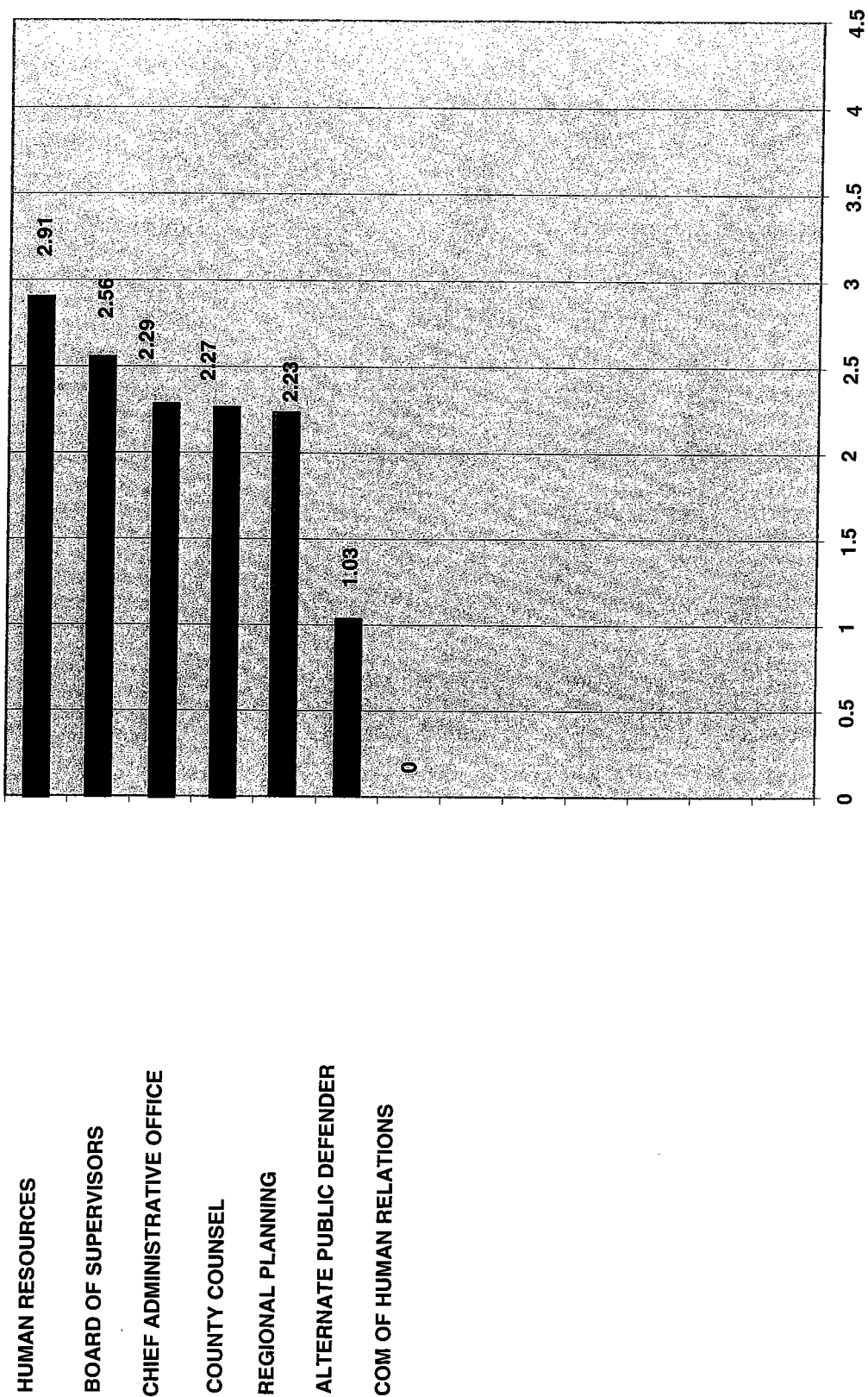




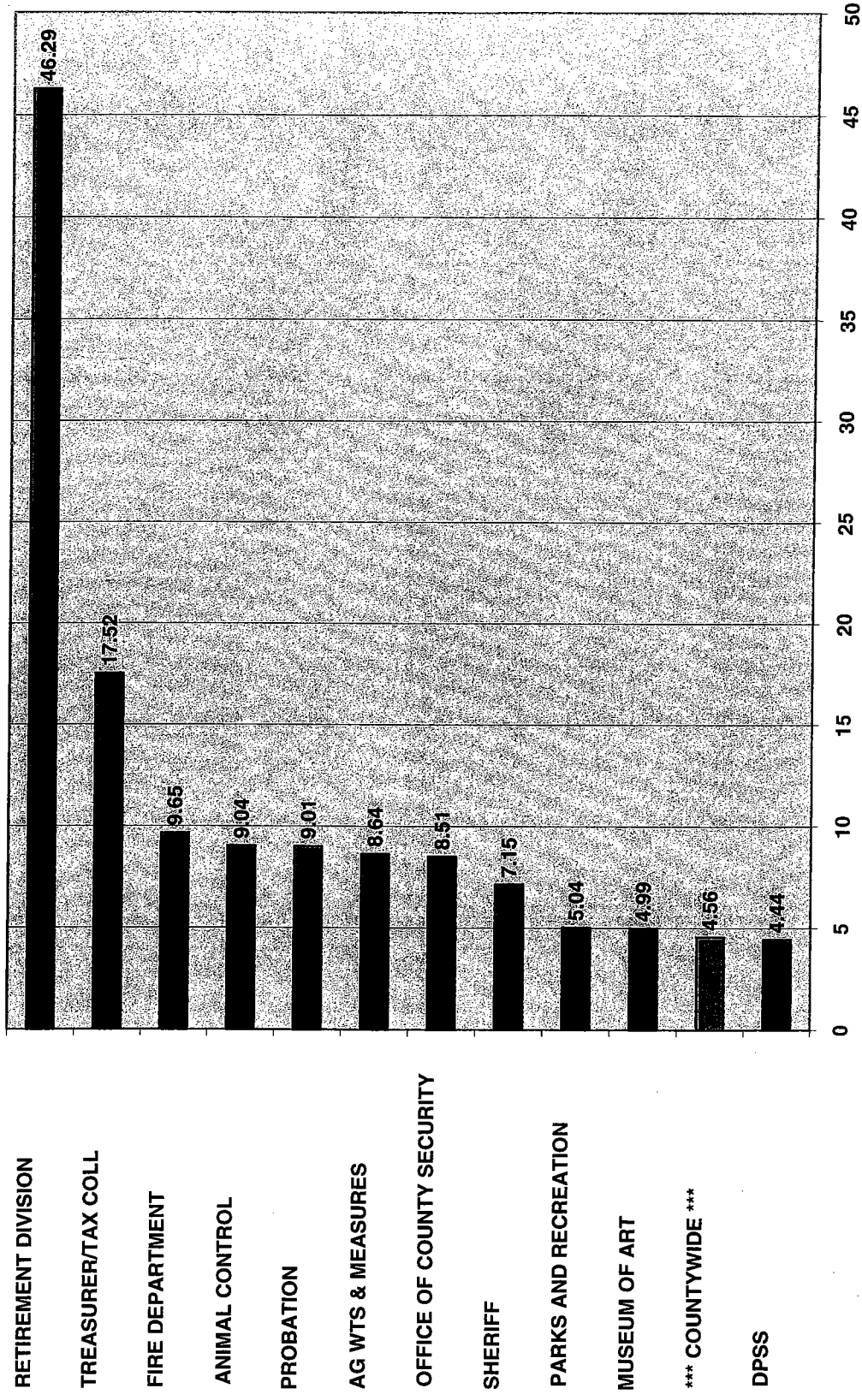


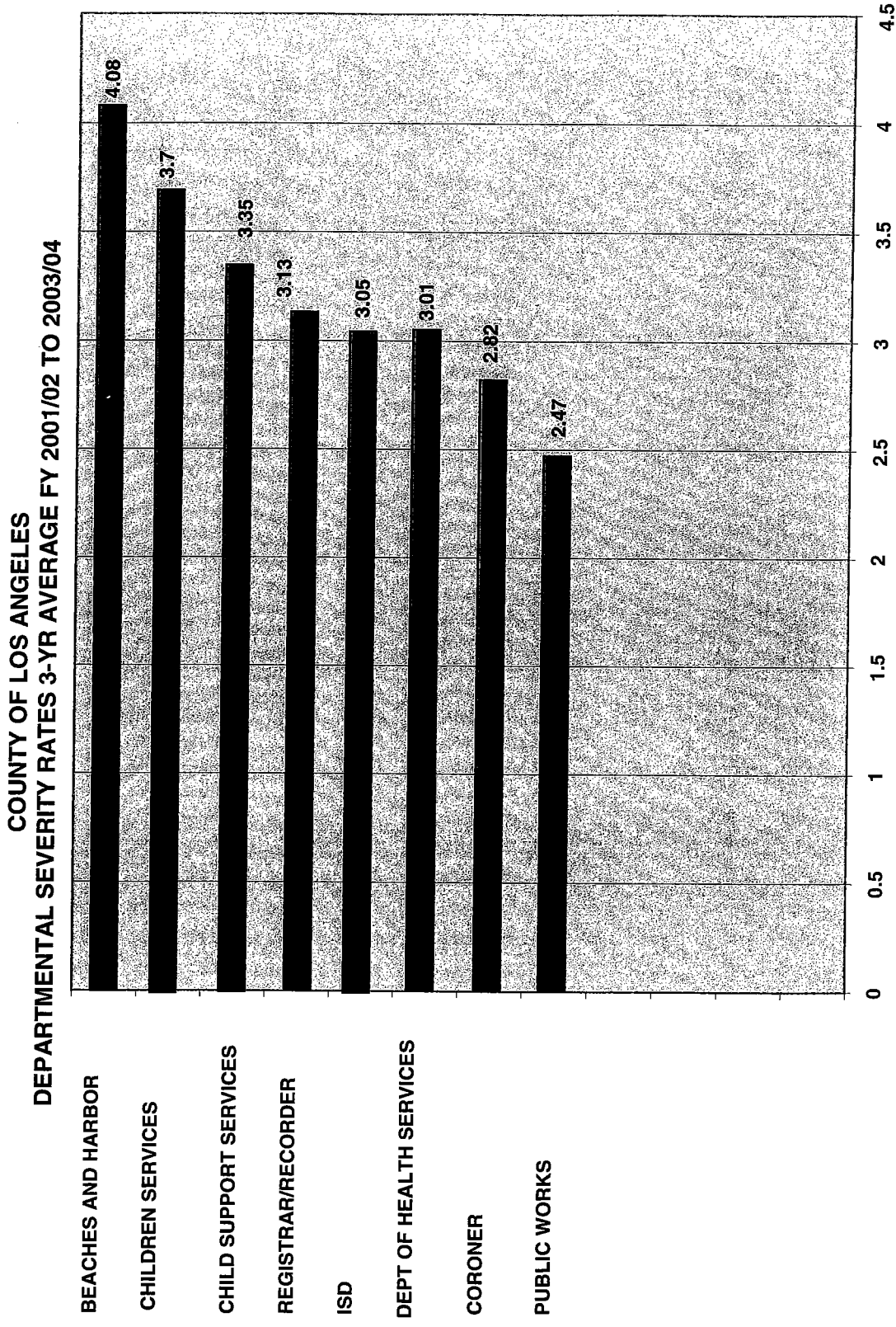


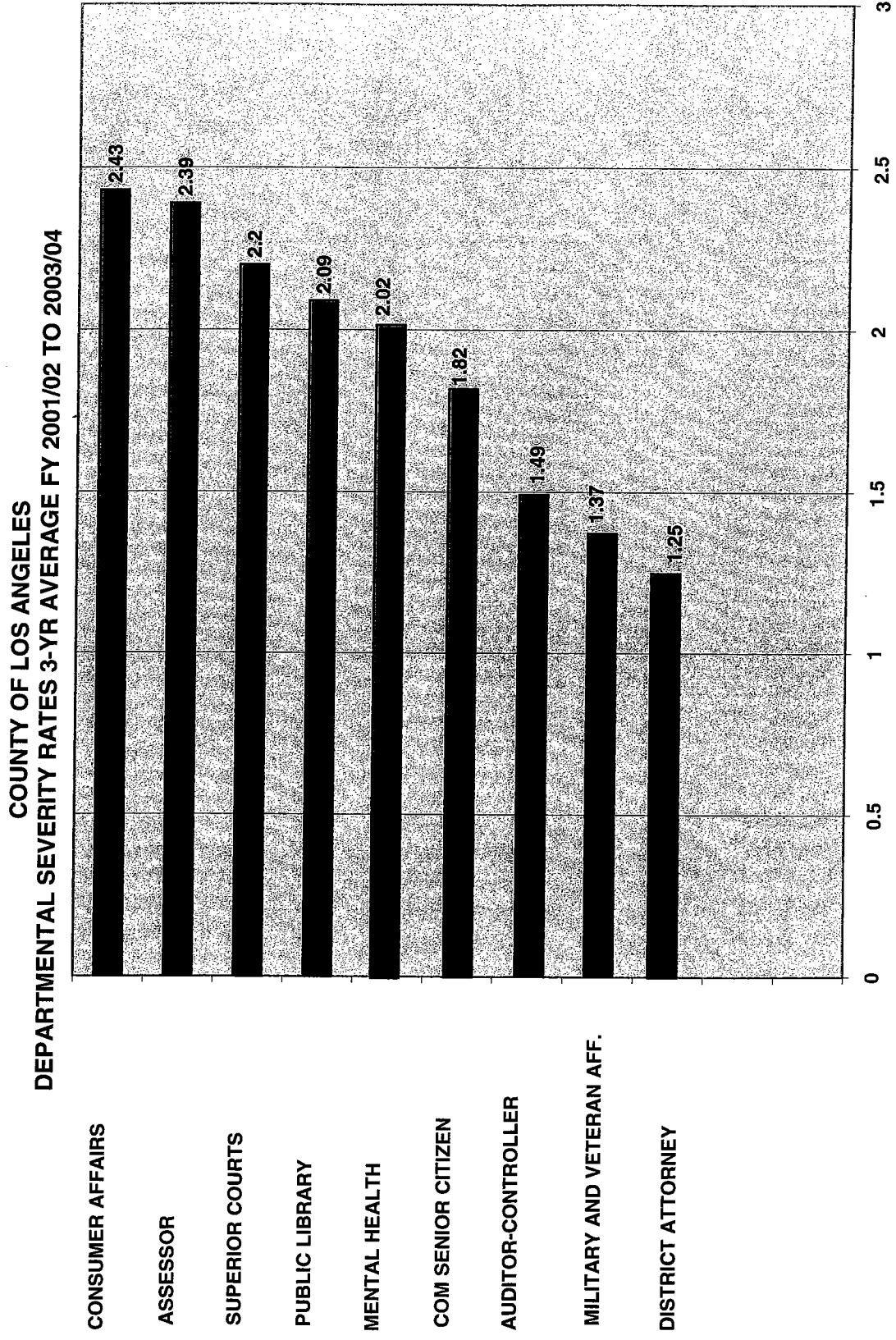
COUNTY OF LOS ANGELES
DEPARTMENTAL FREQUENCY RATES 3-YR AVERAGE FY 2001/02 TO FY 2003/04



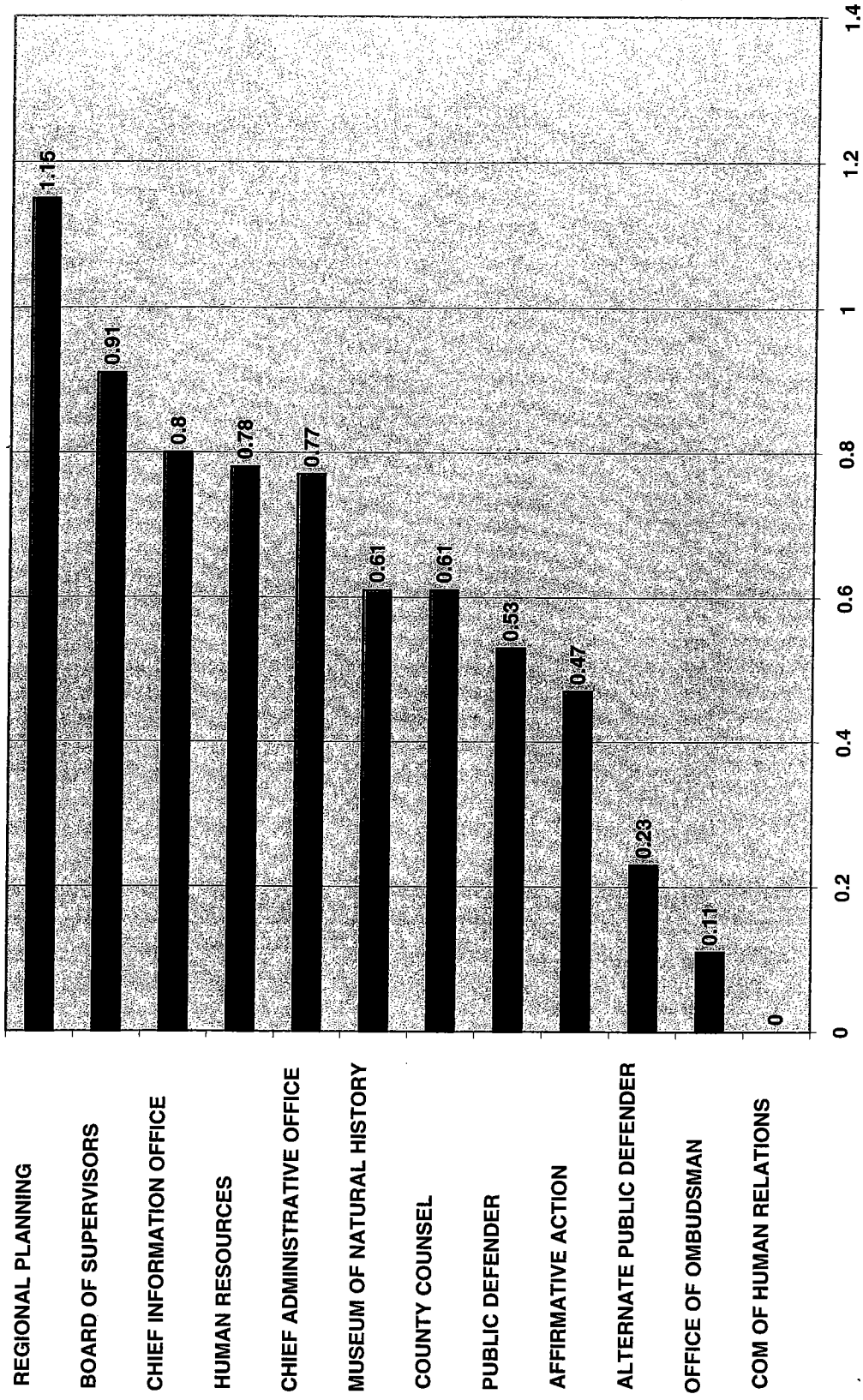
COUNTY OF LOS ANGELES
DEPARTMENTAL SEVERITY RATES 3-YR AVERAGE FY 2001/02 TO 2003/04

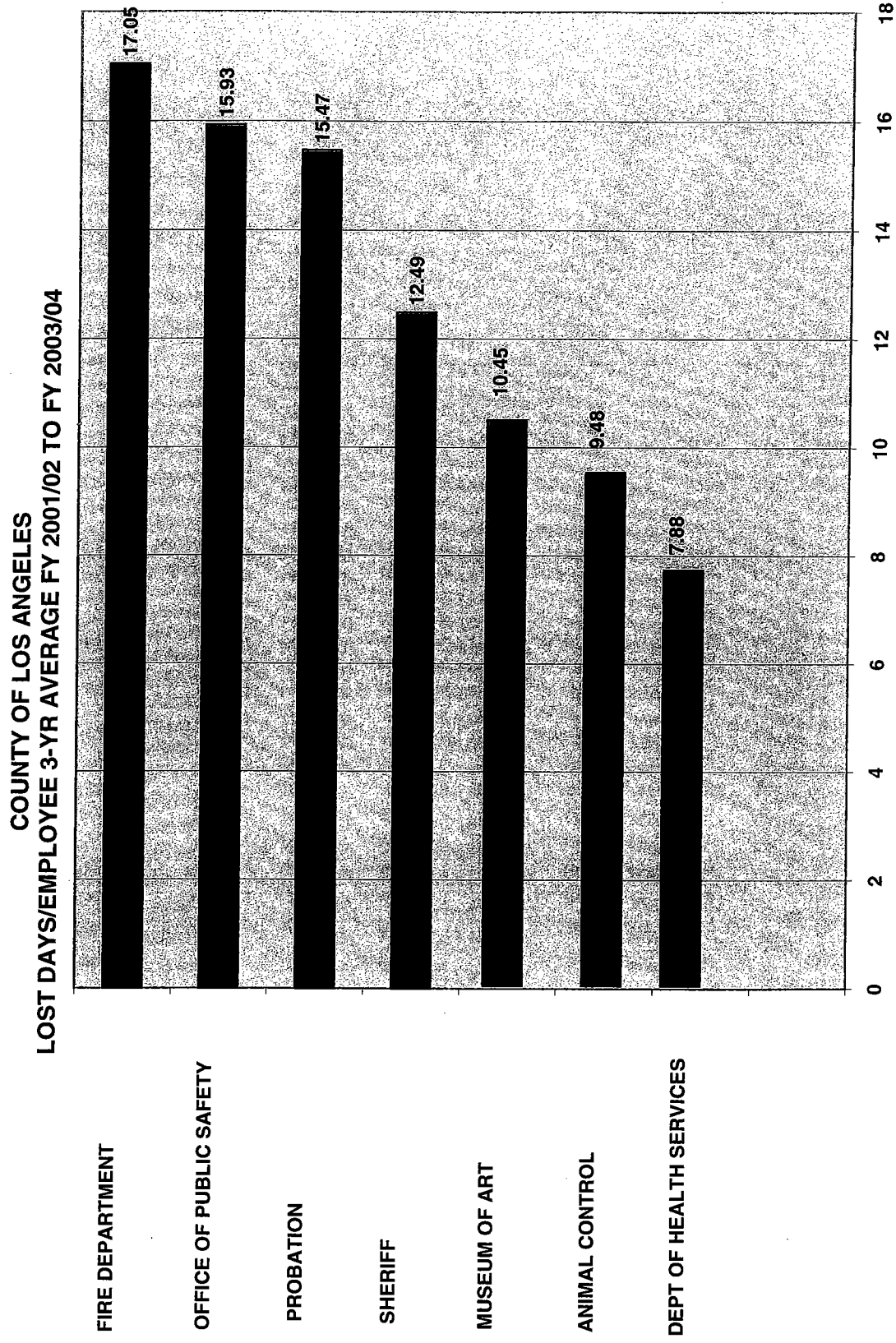


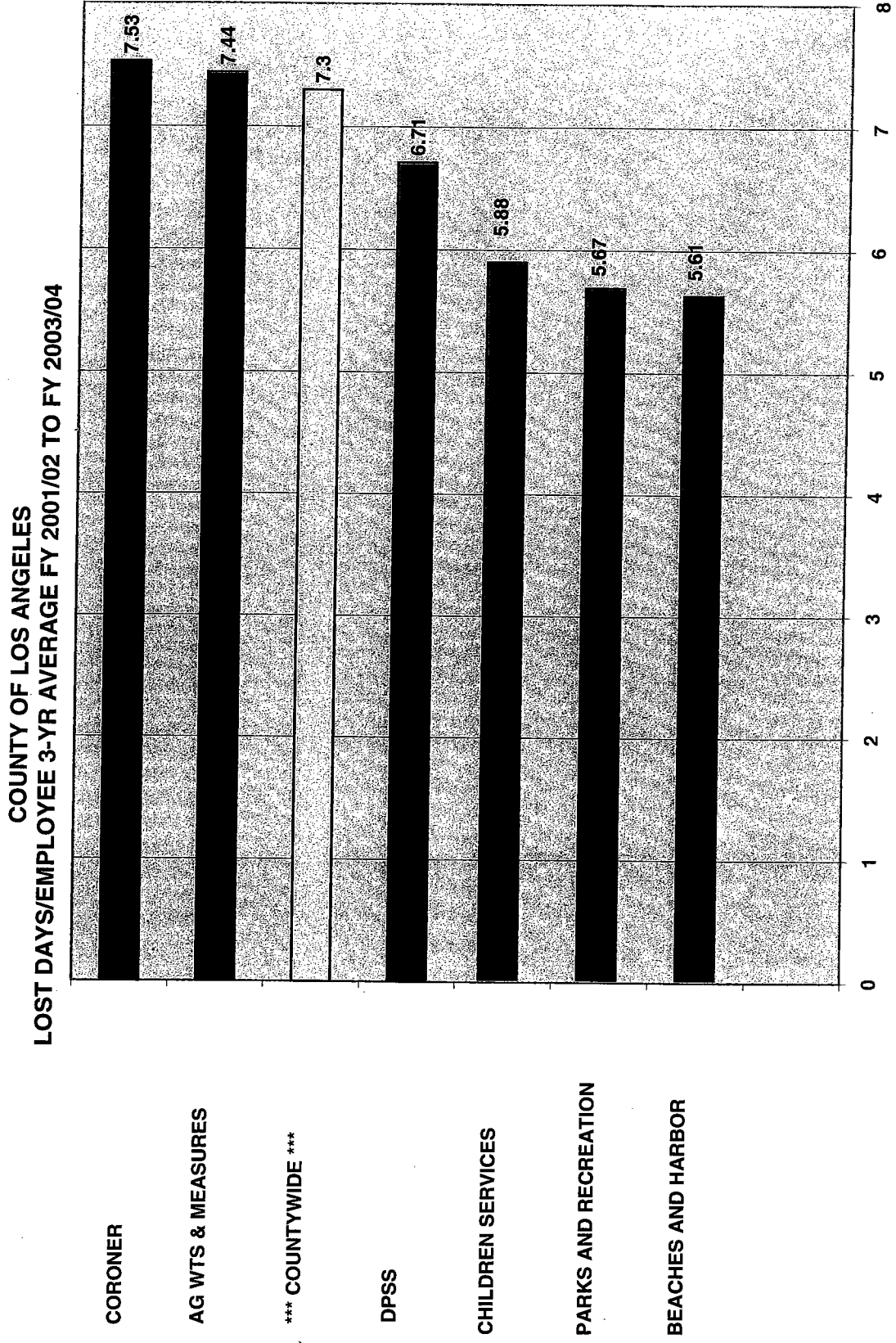


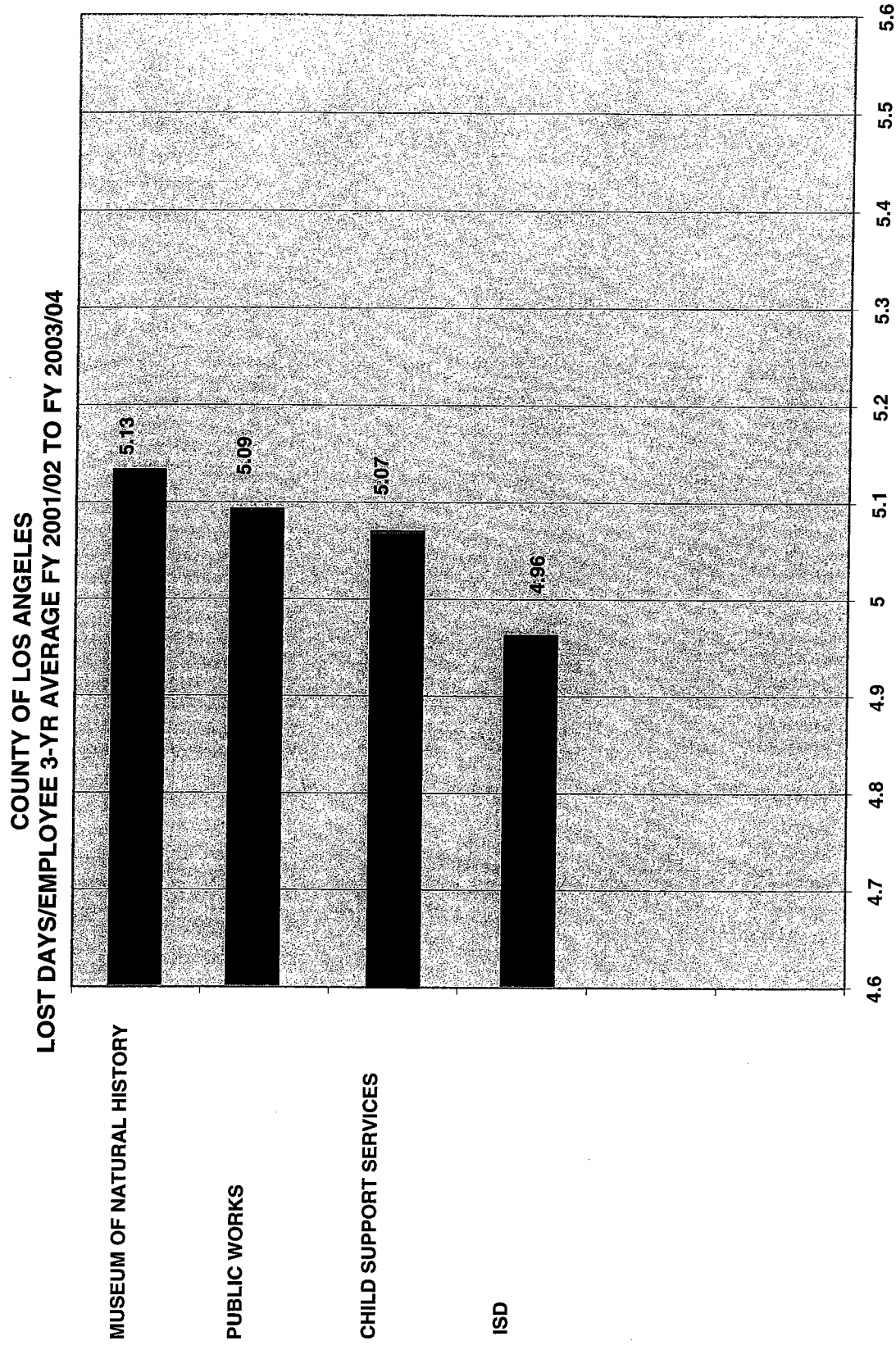


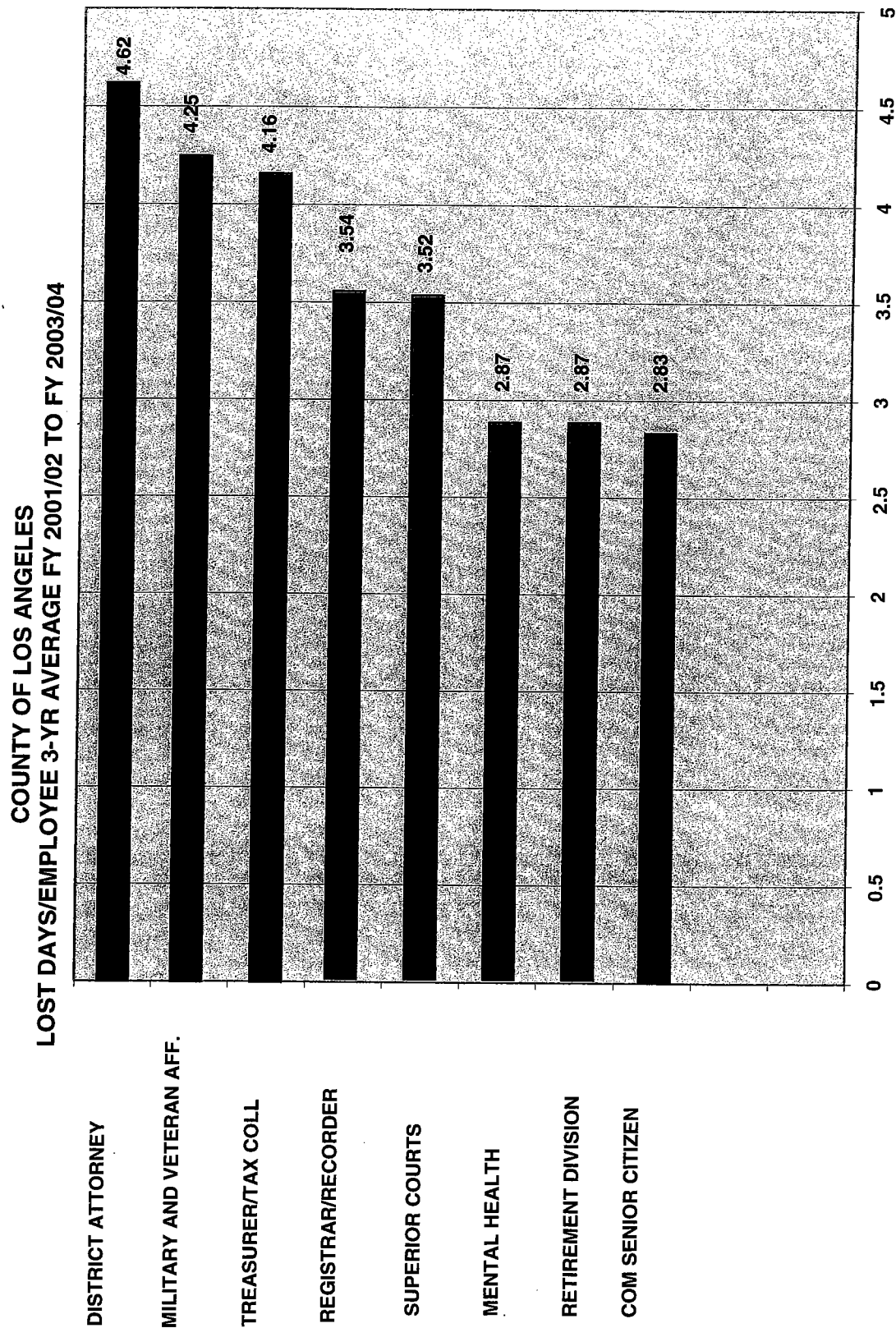
COUNTY OF LOS ANGELES
DEPARTMENTAL SEVERITY REPORT 3-YR AVERAGE FY 2001/02 TO 2003/04

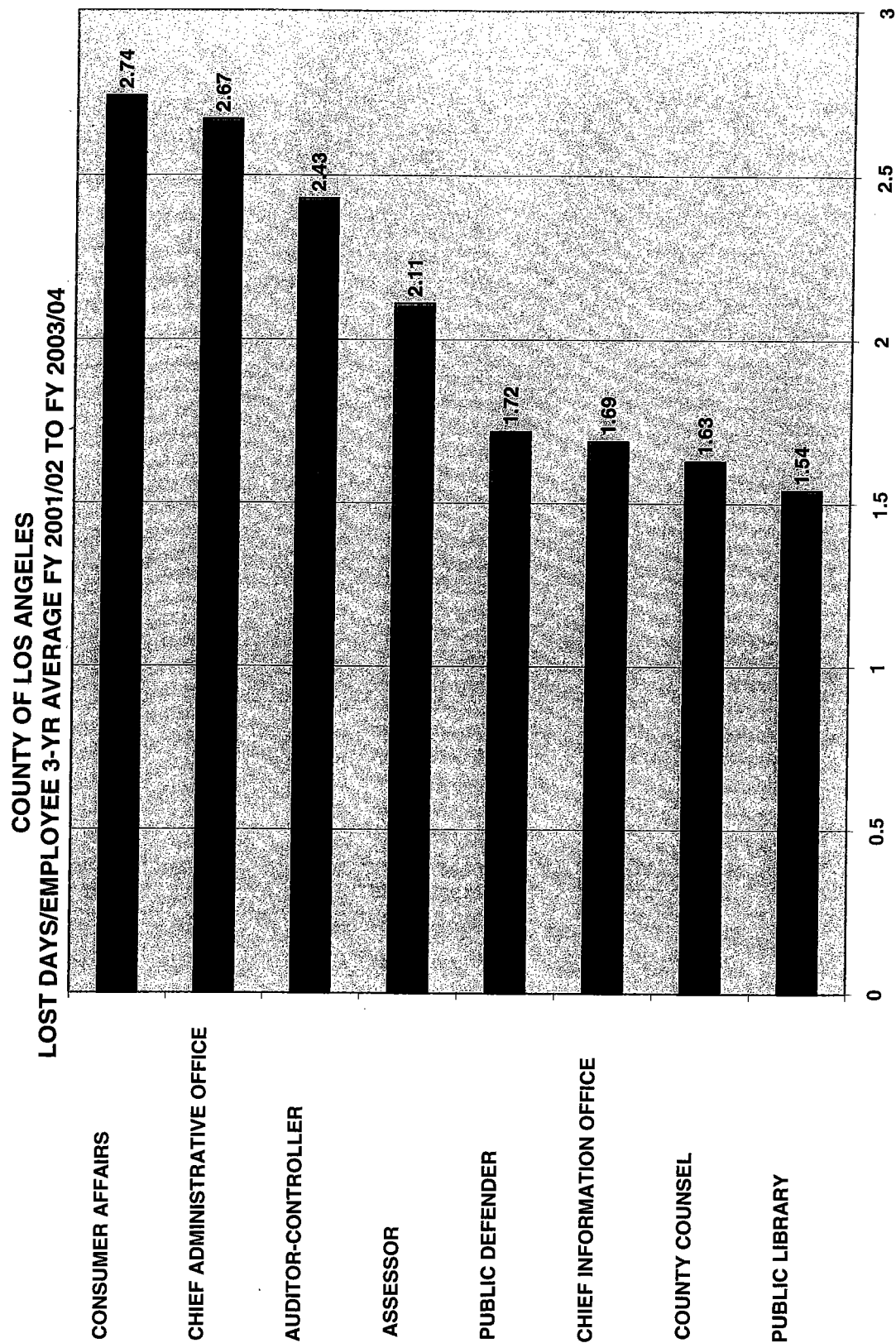


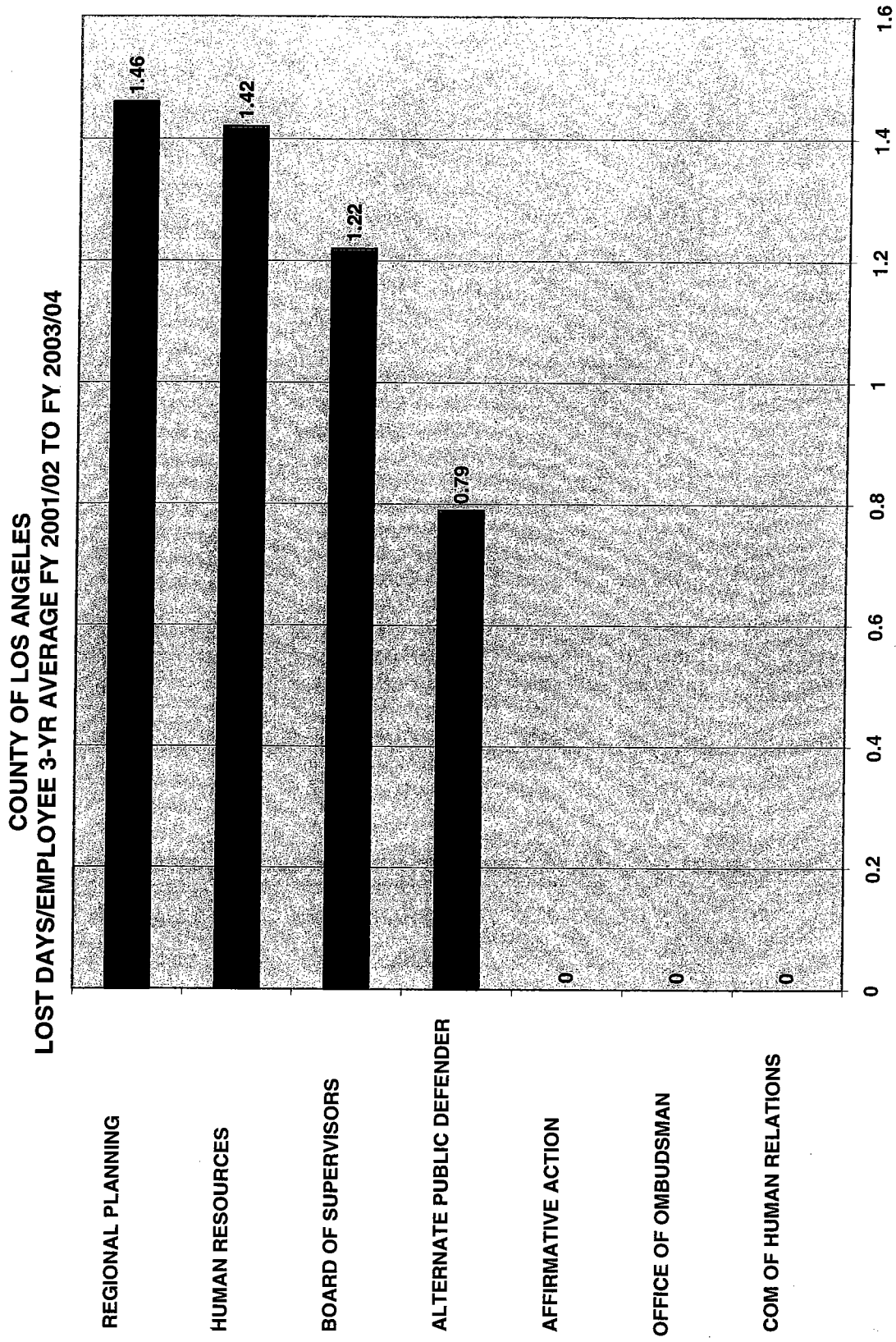












V. BENCHMARK STUDY AND COMPARATIVE CALIFORNIA DATA

Benchmark Study

The CAO is conducting its first benchmark study of workers' compensation losses and exposures and is obtaining data from a number of California public entities. As of the writing of this report, some of the entities were unable to provide adequate historical information. Our preliminary analysis follows, and the CAO will continue its effort to obtain and analyze data for prior years from those entities. However, the CAO successfully obtained meaningful data from six other entities.

Data will be updated periodically, and multi-year comparisons to other California public entities will be included in the CAO's annual Risk Management Report.

Three primary difficulties exist when comparing County data with that of other entities:

- Each public entity possesses a different distribution of exposures and comparable employees by specific departments. Such differentials will cause more claims to be recorded for those entities with a larger number of employees in inherently hazardous work environments; for example, in the Fire District and the Sheriff's Department.
- Differences in historical methods of funding workers' compensation expenses will reflect higher claim frequency and severity rates for entities that have been self-insured for longer time periods. Active self-insured claims continue to incur expenses while fully insured claims do not. Those entities that purchased primary or excess insurance in the past may not be incurring additional expense for their older claims.
- Comparative data are unavailable from a single source within the public entities, and data are inconsistently maintained within each public entity.

The FY 2003-04 data reflect that the County is in the middle range of claim frequency; but, the County possesses the highest cost per employee relative to the entities listed below. This higher cost per employee we believe is attributable to two factors: (1) the County incurs more severe injuries resulting from a more hazardous work environment, (2) the County possesses a large number of old self-insured claims, particularly for safety employees. Approximately 50% of all the County's workers' compensation medical costs arise from claims filed more than four years ago.

Entity	Claims per 100 Employees (FY 2003-2004)	Workers' Compensation Expenses per Employee (1) (FY 2003-2004)
County of Orange	7.5	\$1,114
County of San Diego (excluding Fire)*	10.6	\$1,174
County of Los Angeles	12.6	\$3,564
City of Ventura	12.8	\$2,654
City and County of San Francisco	16.8	\$1,970
County of Sacramento	17.4	\$1,472
City of Los Angeles	22.8	\$3,417

(1) Does not include salary continuation or LC 4850 benefits, except for the County of Orange

Increases in workers' compensation expense experienced by most of the following entities demonstrate the nature of the workers' compensation problem in California public entities.

Entity	Two Year Increase in Workers' Compensation Expenses FY 2001-2002 through FY 2003-2004 (1)
City of Ventura	-15.7%
County of San Diego (excluding Fire) (2)	6.8%
City of Los Angeles	19.0%
City and County of San Francisco	23.4%
County of Sacramento (excluding Fire) (2)	25.4%
County of Los Angeles	25.9%
County of Orange (excluding Fire) (2)	33.8%

(1) The County incurs more severe injuries resulting from a more hazardous work environment

(2) Historical data has not yet been obtained for Fire for the Counties of Orange, Sacramento, and San Diego.

Fire District Comparison

The rate of claims per 100 employees is high for all California public entities providing data. The County claims per 100 employees is relatively low compared the others and is less than the group average. The County's workers' compensation expense per employee is high as compared to others.

Entity	Claims Per 100 Employees (1)	WC Expenses Per Employee (2)	4850 Benefits Per Employee (3)
County of Orange	28.3	\$1,551	N/A
County of Los Angeles	34.4	\$8,617	\$3,959
City and County of San Francisco	35.1	\$4,470	\$4,357
County of Sacramento	41.0	\$799	\$745
City of Los Angeles	43.4	\$5,302	\$2,735
City of Ventura	50.0	\$7,956	\$822

(1) Count includes all employees in the department, including civilians

(2) Does not include salary continuation or LC 4850 benefits, except for the County of Orange which does not track LC 4850 benefits separately

(3) LC 4850 benefits are for CY 2003 for the County of Los Angeles and the County of San Diego, and for FY 2003-2004 for the other entities

Sheriff/Police Comparison

The rate of claims per 100 employees varies significantly between the California public entities providing data. The County rate is at the average for the group. The County workers' compensation expense per employee is high compared with the others. The County's LC 4850 benefit per employee is not the highest, but the County's expenses are higher than the group average.

County LC 4850 benefits paid per employee are significantly lower than the City of Los Angeles and the City and County of San Francisco.

Entity	Claims Per 100 Employees (1)	WC Expenses Per Employee (2)	4850 Benefits Per Employee (3)
County of Orange	10.8	\$1,984	N/A
County of San Diego	17.0	\$2,212	\$434
City of Long Beach	21.8	\$4,687	\$707
City and County of San Francisco	26.6	\$3,833	\$2,790
County of Los Angeles	29.3	\$7,303	\$1,741
City of Los Angeles	35.7	\$5,738	\$2,237
County of Sacramento	39.0	\$2,687	\$366
City of Ventura	53.3	\$12,961	\$1,476

(1) Count includes all employees in the department, including civilians

(2) Does not include salary continuation or LC 4850 benefits, except for the County of Orange which does not track LC 4850 benefits separately

(3) LC 4850 benefits are for CY 2003 for the County of Los Angeles and the County of San Diego, and for FY 2003-2004 for the other entities

Comparison of Workers' Compensation Expenses by Public Entity

Entity	Workers' Compensation Expenses - FY 2001/2002	Workers' Compensation Expenses - FY 2002/2003	One Year Increase - FY 2001/2002 to FY 2002/2003	Workers' Compensation Expenses - FY 2003/2004	One Year Increase - FY 2002/2003 to FY 2003/2004	Two Year Increase - FY 2001/2002 to FY 2003/2004	Annualized Increase Over Two Years
County of Los Angeles	\$257,633,464	\$293,006,526	13.7%	\$324,414,784	10.7%	25.9%	12.2%
City of Los Angeles	\$114,227,125	\$129,700,639	13.5%	\$135,885,205	4.8%	19.0%	9.1%
County of Orange (excluding Fire)	\$17,424,160	\$22,343,973	28.2%	\$23,320,594	4.4%	33.8%	15.7%
County of Sacramento (excluding Fire)	\$17,802,184	\$18,265,175	2.6%	\$22,320,594	22.2%	25.4%	12.0%
County of San Diego (excluding Fire)	\$20,952,335	\$24,662,764	17.7%	\$22,379,494	-9.3%	6.8%	3.3%
City and County of San Francisco	\$43,856,274	\$49,436,298	12.7%	\$54,100,255	9.4%	23.4%	11.1%
City of Ventura	\$3,653,665	\$2,790,410	-23.6%	\$3,081,443	10.4%	-15.7%	-8.2%

* Historical data has not yet been obtained for Fire for the Counties of Orange, Sacramento, and San Diego.

Workers' Compensation Data Comparisons – FY 2003/2004

Entity	Department	FY 2003/2004 Annual WC Claims	FY 2003/2004 Number of Employees	FY 2003/2004 Workers' Compensation Expenses (1)	Claims Per 100 Employees	WC Expenses Per Employee	4850 Benefits	4850 Benefits Per Employee
County of Los Angeles	Countywide - includes Sheriff and Fire	11490	91038	\$324,414,784	12.6	\$3,564	\$48,645,795	\$534
County of Los Angeles	Fire	1347	3918	\$33,762,165	34.4	\$8,617	\$15,511,268	\$3,959
County of Los Angeles	Sheriff	4025	13738	\$100,329,071	29.3	\$7,303	\$23,917,833	\$1,741
Sacramento County	Countywide - includes Sheriff and Fire	2714	15567	\$22,909,276	17.4	\$1,472	\$2,343,256	\$151
Sacramento County	Countywide - includes Sheriff, not Fire	2412	14830	\$22,320,594	16.3	\$1,505	\$1,794,518	\$121
Sacramento County	Fire (2)	302	737	\$588,682	41.0	\$799	\$548,738	\$745
Sacramento County	Sheriff/Police	905	2318	\$6,227,493	39.0	\$2,687	\$849,085	\$366
Orange County (3)	Countywide - includes Sheriff and Fire	1693	22480	\$25,043,535	7.5	\$1,114	N/A	N/A
Orange County (3)	Countywide - includes Sheriff, not Fire	1387	21400	\$23,368,962	6.5	\$1,092	N/A	N/A
Orange County (3)	Fire	306	1080	\$1,674,573	28.3	\$1,551	N/A	N/A
Orange County (3)	Sheriff	448	4133	\$8,198,994	10.8	\$1,984	N/A	N/A
San Diego County	Countywide - inc. Sheriff, not Fire	2022	19060	\$22,379,494	10.6	\$1,174	\$2,317,972	\$122
San Diego County	Fire	Data is not available as San Diego is not covered by a centralized fire authority						
San Diego County	Sheriff/Probation	831	4877	\$10,785,620	17.0	\$2,212	\$2,114,188	\$434
San Francisco	City and Countywide, includes Police and Fire	4617	27463	\$54,100,255	16.8	\$1,970	\$16,808,664	\$612
San Francisco	Fire	626	1782	\$7,964,710	35.1	\$4,470	\$7,763,984	\$4,357
San Francisco	Sheriff/Police	673	2531	\$9,701,216	26.6	\$3,833	\$7,062,394	\$2,790
City of Long Beach	Sheriff/Police	332	1524	\$7,143,707	21.8	\$4,687	\$1,076,973	\$707
City of Los Angeles (4)	Citywide	9070	39768	\$135,885,205	22.8	\$3,417	\$47,652,816	\$1,198
City of Los Angeles	Fire	1464	3376	\$17,901,007	43.4	\$5,302	\$9,233,156	\$2,735
City of Los Angeles	Police	3634	10190	\$58,472,969	35.7	\$5,738	\$22,798,918	\$2,237
City of Ventura	Citywide	149	1161	\$3,081,443	12.8	\$2,654	\$261,819	\$226
City of Ventura	Fire	38	76	\$604,620	50.0	\$7,956	\$62,509	\$822
City of Ventura	Police	72	135	\$1,749,788	53.3	\$12,961	\$199,310	\$1,476

(1) Workers' compensation payouts do not include salary continuation or LC 4850 benefits with the exception of Orange County (who includes them as part of their indemnity benefits)

(2) Sacramento County Fire workers' compensation payouts are for medical expenses only; permanent disability expenses have not yet been determined

(3) Orange County workers' compensation payouts include LC 4850 benefits as these are not calculated separately from any other indemnity benefit

(4) City of Los Angeles data includes total WC expenditures; 4850 benefit column includes salary continuation (IOD); data does not include Department of Water & Power

(5) All data is listed as provided by the other entities and is subject to their method of obtaining their own data

Workers' Compensation Program Overview

Entity	Current Insurance Status	Past Insurance
County of Los Angeles	Self-insured since 1969; no excess coverage	No excess coverage since 1977
City of Los Angeles	Self-insured; no excess coverage	Information not yet obtained
County of Orange	Self-insured since mid-1970s; no excess coverage	No excess coverage since 2002; occasional purchase of excess coverage based on market conditions and reserves
County of Orange – Fire	Self-insured since 2002; no excess coverage	Guaranteed cost coverage from 1995-2002; self-insured with County prior to 1995
County of Sacramento	Self-insured since 1972; yes excess coverage	Always arranges some excess coverage; current retention is \$2,000,000
County of Sacramento – Fire	Self-insured since 1987; no excess coverage	Participated in an insurance pool from 1983-1987; self-insured with County since late 1970s; primary coverage with State Fund prior to late 1970s
County of San Diego	Self-insured; no excess coverage	Excess coverage in FY 2001 and 2002
City and County of San Francisco	Self-insured; no excess coverage	No prior coverage
City of Ventura	Self-insured; yes excess coverage	Primary coverage until 1993; self-insured since 1993; current excess retention level is \$500,000



CHIEF ADMINISTRATIVE OFFICE

REPORT ON THE INFLUENCE OF THE STATE OF CALIFORNIA LABOR CODE 4850 AND THE COUNTY OF LOS ANGELES SERVICE CONNECTED DISABILITY RETIREMENTS ON THE COUNTY OF LOS ANGELES WORKERS' COMPENSATION PROGRAM, JANUARY 2005

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JANUARY 2005

I. LABOR CODE SECTION 4850 PROVISIONS AND BENEFITS

Background

Labor Code Section 4850 (LC 4850) provides special benefits to safety personnel (police, deputy sheriffs, firefighters, and other covered occupations). Originally, the reason for such exceptional treatment was because safety occupations are particularly hazardous and undertaken to protect the public. LC 4850's intent was to assure that safety personnel were not deterred from the enthusiastic performance of their duties out of fear for loss of earning capacity and promotion opportunity.

LC 4850 was first enacted in the State of California (California) in 1939. However, eligible County of Los Angeles (County) Sheriff Department and Fire District employees were not included until 1949 and 1951 respectively.

Employee Eligibility:

The following employees are eligible to receive LC 4850 payments:

- (1) City police officers;
- (2) City, county, or district firefighters;
- (3) Sheriffs;
- (4) Officers or employees of any sheriff's offices;
- (5) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office;
- (6) County probation officers, group counselors, or juvenile services officers;
- (7) Officers or employees of a probation office;
- (8) Peace officers under Section 830.31 of the Penal Code employed on a regular, full-time basis by a county of the first class;
- (9) Lifeguards employed year round on a regular, full-time basis by a county of the first class;
- (10) Airport law enforcement officers under subdivision (d) of Section 830.33 of the Penal Code;
- (11) Harbor or port police officers, wardens, or special officers of a harbor or port district or city or county harbor department under subdivision (1) of Section 830.1 or subdivision (b) of Section 830.33 of the Penal Code; and
- (12) Police officers of the Los Angeles Unified School District.

The following employees are not eligible for LC 4850 payments:

- (1) Employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service;
- (2) Employees of a County sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service;

- (3) Employees of County probation office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service; and
- (4) Employees of a City fire department, county fire department, or fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active firefighting and prevention service.

LC 4850 Payments

LC 4850 provides that whenever a covered employee is disabled because of injury or illness arising out of job duties, the covered employee is entitled to a leave of absence without loss of salary in lieu of disability payments. The leave of absence is for the period of disability not exceeding one year, until the covered employee is retired on permanent disability pension, or is receiving disability pension payments or advanced disability pension payments. In other words, the benefit is payable until the periods of disability, either temporary or permanent, total one year, and the employee is released to return to work or the employee begins receiving disability pension payments.

Unless the injured employee is offered light or modified duty, after the County's workers' compensation third party administrator verifies an injury or illness is work related, eligible safety personnel automatically receive LC 4850 payments. LC 4850 claims are paid through the County payroll system. Unlike workers' compensation temporary disability payments, these full salary LC 4850 payments are not limited by a three day waiting period. The LC 4850 payments immediately begin with the onset of disability. Like workers' compensation temporary disability payments, LC 4850 benefits are not taxed.

Periodically, situations arise when a covered employee returns to work, after having received LC 4850 payments for an extensive period of time and then allegedly sustains a new injury. If it is determined that the allegation rises to the level of a new injury, an additional year of LC 4850 payments may be owed. If the new injury is deemed an "exacerbation", a new period of LC 4850 benefits is not payable. Additionally, where the disability period is the result of several injuries, there is no requirement to pay more than a single year of LC 4850 benefit.

COUNTY OF LOS ANGELES LC 4850 COSTS:

Calendar Year	LC 4850 Paid
2004	(Est.) \$48,354,839*
2003	\$48,645,795
2002	\$46,776,270
2001	\$44,745,498

* Annualized using eleven months of actual LC 4850 payment data.

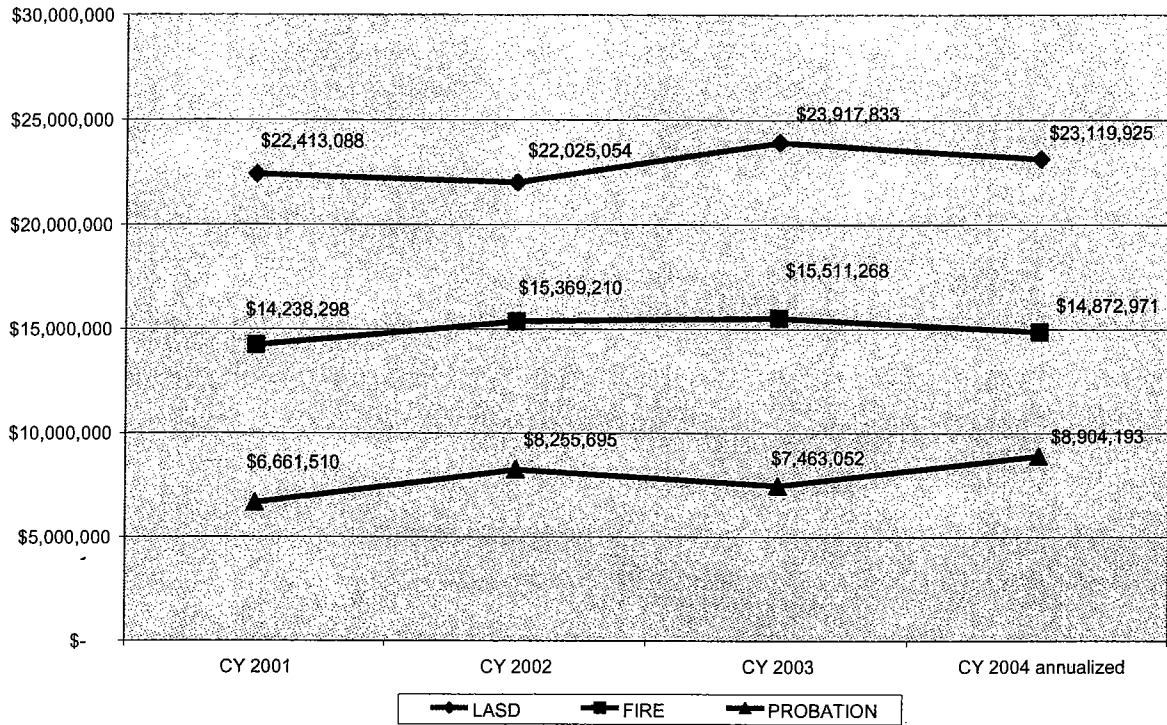
COUNTY OF LOS ANGELES LC 4850 CLAIMS:

Fiscal Year	Number of LC 4850 Claims
FY 2003-04	5,110
FY 2002-03	4,936
FY 2001-02	5,098
FY 2000-01	5,022

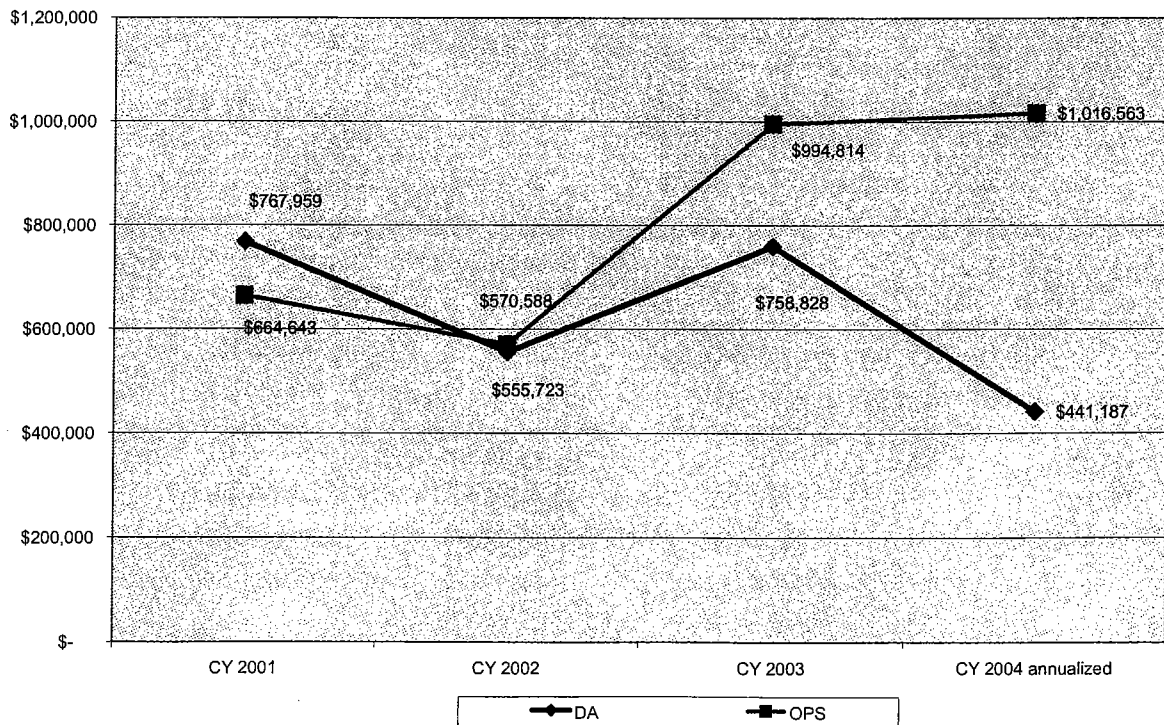
For the Calendar Year period of 2001 through 2004, LC 4850 payments increased by 2.62% a year. In contrast, the number of claims filed with dates of injury from FY 2000-01 through FY 2003-04 only increased by 0.58% a year.

In its June 30, 2004, actuarial report, the County's workers' compensation actuary calculated the County's Estimated Outstanding Liabilities for LC 4850 benefits to be \$238.5 million. The County will pay approximately \$49 million in LC 4850 benefits in FY 2005-06.

LC 4850 COSTS BY DEPARTMENT



LC 4850 COSTS BY DEPARTMENT



Suggested Reforms

Because the LC 4850 payments are federal and state tax free, LC 4850 provides a higher net income during disability than the employee's regular salary. This encourages increased utilization and extended disability duration, as illustrated in the Department of Probation (Probation) workers' compensation loss frequency data. In the three year period FY 1996-97 to FY 1998-99, prior to the extension of LC 4850 benefits to specific Probation employees, Probation's frequency rate averaged 11.7 claims per 100 employees. In the three year period FY 2001-02 to FY 2003-04, after LC 4850 benefits were extended to Probation, Probation's average frequency rate increased to 15.0 claims per 100 employees, a 28% increase.

To better control and reduce LC 4850 expense, the following LC 4850 reforms could be considered:

- Continued opposition to legislation that mandates eligibility of additional safety employees for LC 4850 benefits.
- Continued opposition to addition presumptions of workers' compensation benefits for safety personnel.
- Continued opposition to legislation extending LC 4850 coverage periods.
- Limit extension of the 100% benefit to only those instances where the injury resulted from a sudden, severe, and traumatic event, caused by external violence or physical force, and arose in the course of performing duties resulting from an identifiable threat to property or safety or while responding to an emergent situation.
- Exclusion of LC 4850 time from the definition of "service" for the purposes of calculating a regular service retirement benefit unless: a) the LC 4850 time is the result of a sudden, severe, and traumatic event, caused by external violence or physical force, and arose in the course of performing duties resulting from an identifiable threat to property or safety or while responding to an emergent situation; or, b) the safety member returns to work for at least six months prior to retirement.
- Sponsoring of legislation to reduce the 100% of federal and state tax free LC 4850 benefit payments to 75%; and, reduce SCDR survivor benefit from 100% to 65% or 80%, unless the employee is killed in the line of duty, in which case, the benefit would be 100%.
- Increase managerial control by establishing a process for management to initiate a SCDR and avoid instances of up to one year of LC 4850 payments immediately prior to a SCDR.

- Some safety employees' injuries or illnesses are considered "rebuttable presumptions" including heart, cancer, pneumonia, meningitis, hernia, blood-borne pathogens, chemical substances, and back problems. A presumption may mean the injury or illness is job related. However, not all cancers, heart or back problems are job related. A review of all presumptions could be conducted to assure their reasonableness and that such injuries or illnesses are job related.
- Obtaining County Counsel review and advisement if LC 4850 benefits fall under a State of California mandate and are thereby eligible for reimbursement.

These suggested recommendations involve highly complex and sensitive matters. Accordingly, the implementation of such recommendations necessitates an extensive analysis of major policy decisions. To implement almost all of the above recommendations, California Labor Code, Governmental Code, or both, must be changed. Additionally, County Memoranda of Understanding will require re-negotiation.

II. SERVICE CONNECTED DISABILITY RETIREMENT

Background

The County Employees Retirement Act of 1937 entitles eligible employees to a Service Connected Disability Retirement (SCDR) if incapacitated in the performance of "duties in the service." Although the County workers' compensation system operates separately from the Los Angeles County Employees' Retirement Association (LACERA), nearly all County SCDRs are preceded by a workers' compensation claim. Additionally, the vast majority of SCDRs are immediately preceded by the payment of LC 4850 benefits.

SCDRs exist in all California County retirement systems including CalPERS, and County Employees Retirement Act of 1937 systems. The County falls under the County Employees Retirement Act of 1937. It should be noted that:

- SCDR is available to all eligible employees on the first day of employment.
- The injury or illness standard for a SCDR to be considered job related has been diminished over the years by court decisions.
- County SCDR is provided in addition to workers' compensation.
- SCDR pays 50% tax free of a safety pension and Cost of Living Adjustments apply.

The CAO's initial review of SCDR focused upon the reasons why the County's SCDR experience may be higher than other California public entities. The County specifically compared its SCDR to the City of Los Angeles' (City) program. The CAO was assisted in its review by staff from County Counsel, County Fire District, Sheriff's Department, and the City.

What the CAO found was that because of the County's LC 4850 and SCDR program structures, County employees are encouraged to file LC 4850 claims and maximize their pension with SCDR payments. In contrast, the City's programs do not encourage utilization.

Los Angeles County Retirement Association (LACERA) SCDR Process

County SCDRs are approved by the LACERA Board of Retirement comprised of four Board of Supervisor appointees, four elected employee/retiree representatives and the County Treasurer and Tax Collector as an ex-officio member.

Employee applications, signed under penalty of perjury, are accompanied by documentation from the employee's physician explaining the applicant's permanent disability. The application is assigned to a LACERA Disability Retirement Investigator for evaluation and review. Should the applicant have filed a County workers' compensation claim(s), the review likely will include a review of the workers' compensation decisions or findings.

All applicants must undergo an independent medical examination, the results of which must be included in the investigator's evaluation.

The investigator is obligated to render a finding as respects the applicant's permanent disability to the Board of Retirement. The Board of Retirement considers all evidence in closed sessions (to protect applicant privacy), and the applicant and applicant's attorney are allowed to testify. The Board of Retirement's medical advisor also attends the closed session. A majority vote of the closed session's quorum is required.

An applicant receiving a denial may appeal by requesting a hearing before a Board of Retirement referee. Should that appeal be denied, the applicant may appeal further through the California Superior Court, California Court of Appeal and the California Supreme Court.

City of Los Angeles

An eligible employee may receive either earned service retirement benefit or a tax free benefit equal to 30% to 90% of final compensation depending on the severity of the disability. An employee may receive one or the other of these benefits, but not both.

The City Charter contains a workers' compensation coordination provision which requires the Department of Fire and Police Pensions to recover (recapture) workers' compensation benefits that have been, or will be, paid to a member who receives a disability pension. All cash awards, state rate disability payments, and vocational rehabilitation allowances are recovered, as well as the amount the Workers' Compensation Appeals Board takes out of awards to pay for attorney's fees.

The City Charter further requires: 1) a minimum of 25% of the monthly gross benefit be deducted in order to recover such awards received prior to the pension effective date; and 2) a dollar for dollar off-set of workers' compensation awards that continue beyond the effective date of a disability pension. Therefore, if an eligible employee with significant prior workers' compensation awards is granted a disability pension with retroactive benefits, a substantial portion of the lump sum retroactive pension payment is withheld to satisfy the workers' compensation recapture requirement.

The CAO's review of the City's approach to the administration of LC 4850 and SCDR benefits and programs revealed three primary differences from the County's approach:

1. An eligible City employee may receive either an earned service retirement benefit or a tax free service connected retirement benefit ranging from 30% to 90% of final compensation depending upon severity.

An eligible County employee will receive 50% of final compensation tax free; plus taxable remainder of full service retirement allowance; plus any workers' compensation payments.

2. City Deferred Retirement Option Plan (DROP):

DROP allows an eligible City employee to work five years beyond retirement while receiving a City paycheck. Additionally, the retirement income the employee elects to defer is also deposited in a DROP account and payable in lump-sum or rolled over to a tax-qualified plan. An employee can not be on a SCDR to remain DROP eligible.

The County does not offer a similar program.

3. Workers' Compensation Off-set:

The City off-sets or reduces SCDR payments against workers' compensation claim payments.

The County does not off-set any workers' compensation payments.

SCDR Benefit Calculation

County of Los Angeles:

The computation applied to determine County SCDR benefits is based primarily upon an eligible employee's age and years of service. The 50% threshold is the allowance for an under 50 years of age SCDR. An eligible employee under age 50 years receives:

1. 50% of salary, tax free
2. Surviving spouse would be entitled to 100% of employee's unmodified SCDR benefit rather than 65% of the eligible employee's unmodified non-SCDR benefit
3. Any workers' compensation claim payment

Once an employee attains age 50, the employee is also eligible for a regular retirement. However, if the employee is authorized a SCDR, the disabled employee receives:

1. 50% of salary, tax free
2. Remainder of retirement benefit, taxable
3. Surviving spousal benefit increases from 65% to 100%
4. Any workers' compensation claim payment

Once an eligible employee attains age 50, the employee receives an increase in the employee's retirement allotment of approximately 6% each year for each year of service through age 55. Therefore, it is in the employee's best economic interest to "remain on the books" an additional year, many times on LC 4850 leave, to receive the 6% increase.

City of Los Angeles:

SCDR benefit is based upon a percentage of disability, the range of which is 30% to 90%. The benefit is paid tax free.

The City off-sets or reduces the SCDR benefit against workers' compensation indemnity payments.

To receive the City's DROP benefit, an employee can not receive SCDR.

County SCDR Experience

Fire District					
Year	Total Retire	SCDR	Number of LC 4850 Claims Reported	Number (%) SCDR Using LC 4850 Prior to Retirement	Number (%) SCDR Using LC 4850 Minimum of Nine Months Prior to Retirement
2004	79	45	1,112	44 (98%)	42 (93%)
2003	93	58	1,250	53 (91%)	48 (83%)
2002	85	70	1,212	68 (97%)	58 (83%)
2001	110	85	1,188	83 (98%)	76 (89%)
Total	367	258	4,762	248 (96%)	224 (87%)

Sheriff's Department					
Year	Total Retire	SCDR	Number of LC 4850 Claims Reported	Number (%) SCDR Using LC 4850 Prior to Retirement	Number (%) SCDR Using LC 4850 Minimum of Nine Months Prior to Retirement
2004	274	121	3,203	114 (94%)	111 (76%)
2003	311	121	2,973	115 (95%)	118 (85%)
2002	266	138	3,081	128 (93%)	94 (78%)
2001	236	146	3,052	128 (88%)	93 (77%)
Total	1,087	526	12,309	485/92%	416/79%

Proposed SCDR Reforms

The following legislative and Memoranda of Understanding changes could be considered:

- SCDR disability standards to be based only upon clear and convincing evidence that employment is the predominant cause of injury. Evaluation would include employee's ability to perform in any occupational position, not just a specific safety position. Similar standards currently apply to the County's Long Term Disability Program and the federal Social Security disability threshold.

- An eligible employee may receive either an earned service retirement benefit or a tax free benefit ranging from 30% to 90% of final compensation depending upon severity of disability. This requires County and MOU to agree on the standards for determining 30% to 90% ratings. An employee would receive either SCDR or regular retirement, but not both. Currently, County SCDR retirees receive: 50% of earned pension benefit tax free, the remainder of earned pension benefit is taxable, survivor benefits increase from 65% to 100%, and workers' compensation benefits.
- Coordinate workers' compensation and SCDR benefits by reducing the latter by the workers' compensation indemnity benefits received post-retirement for any County workers' compensation illness or injury.
- Change the unmodified survivor benefit from 100% to 65% or 80% in all cases unless a safety member is killed in the line of duty, in which case, the survivor benefit shall remain at 100%.
- Return injured Fire District and Sheriff Department employees to non-arduous assignments whenever possible. County Fire District and Sheriff Department's approach to Return-to-Work differs from the City. Both County agencies apply a "full range of duties" policy wherein safety professionals should be capable of performing even the most "arduous" tasks. The City returns more safety professionals to work in non-arduous assignments. CAO staff believe a number of injured County safety employees would be capable of performing non-arduous assignments, including inter-department transfers. However, for the County to assume such an approach, the impact upon Fire District and Sheriff Department's staffing, assignments, career development and emergency response times should be evaluated.
- Grant County management the discretion to determine an employee's retirement date when there exists clear and objective medical evidence the employee is totally or partially, but permanently, incapacitated to the point where retirement is inevitable.
- Consider a program similar to the City Deferred Retirement Option Plan (DROP) in which:
 - 1) An eligible employee may "retire" for the purposes of pension calculations only. The employee remains on active employment status. DROP is for five years. Employee must possess 25 years of service to be DROP eligible. Once the employee leaves DROP, the employee must *terminate* sworn City employment.
 - 2) The monthly pension is deposited into a DROP account and earns interest. When the employee terminates DROP, the DROP money can be taken as a lump-sum or rolled into a tax-qualified plan.

- 3) Should the employee become disabled after joining DROP and begin receiving a disability pension, the employee forfeits the employee's entire DROP account. If an employee terminates employment and receives the employee's DROP account funds, the employee is no longer eligible to apply for or receive a disability retirement.
 - 4) If the employee is injured while on DROP and begins to receive workers' compensation payments that continue after the DROP period, the employee exits DROP, but continues to receive workers' compensation payments.
 - 5) The employee would not be allowed to receive DROP funds until after the employee's retirement status is determined.
- Coordinate workers' compensation payments and SCDRs by reducing the latter by any workers' compensation indemnity payment received, post-retirement, for any industrial injury or illness.
 - Discontinue SCRD if the employee engages in similar work for another public entity.

Relevant Workers' Compensation/SCDR Data

The County's fully self-insured workers' compensation program was established in 1969 to pay the claims of employees whose injuries arise out, and in the course, of County employment. The program generates significant costs. These costs are heavily impacted by the County's high number of "arduous class" employees and the high number of the County's long-term medical liabilities. Many safety employees are classified as "arduous class" employees.

Two factors that increase the number of safety workers' compensation claims filed and the cost of those claims are:

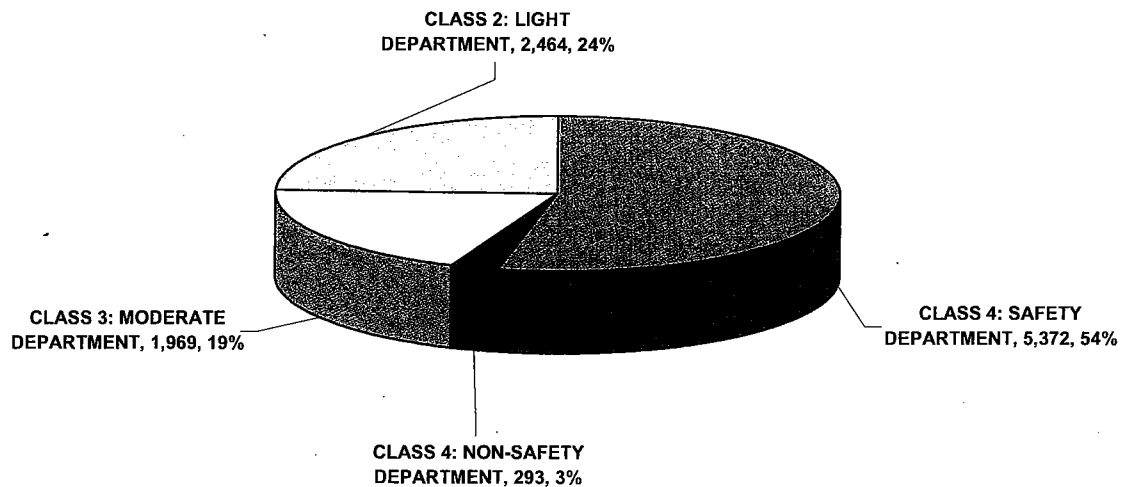
1. Safety personnel are exposed to a variety of hazardous situations not encountered in many other occupations; and,
2. The physical nature of safety occupations may act over time to negatively impact the employee's health and ability to perform.

California statutory changes and legal findings have enriched claim payments and afforded claimants easier access to benefits for certain groups of workers. In addition to LC 4850, as previously noted, a number of County occupations are covered by laws called "presumptions." For employees working in safety occupations the list of injuries presumed to arise from employment include, but are not limited to, the following: heart trouble, pneumonia, cancer, hernia, tuberculosis, and, in some cases, back injuries.

The following comparisons illustrate the impact of these factors upon various employee groups.

- 1) Number of Physical Class 4: Arduous/Safety employees in the County employee population:

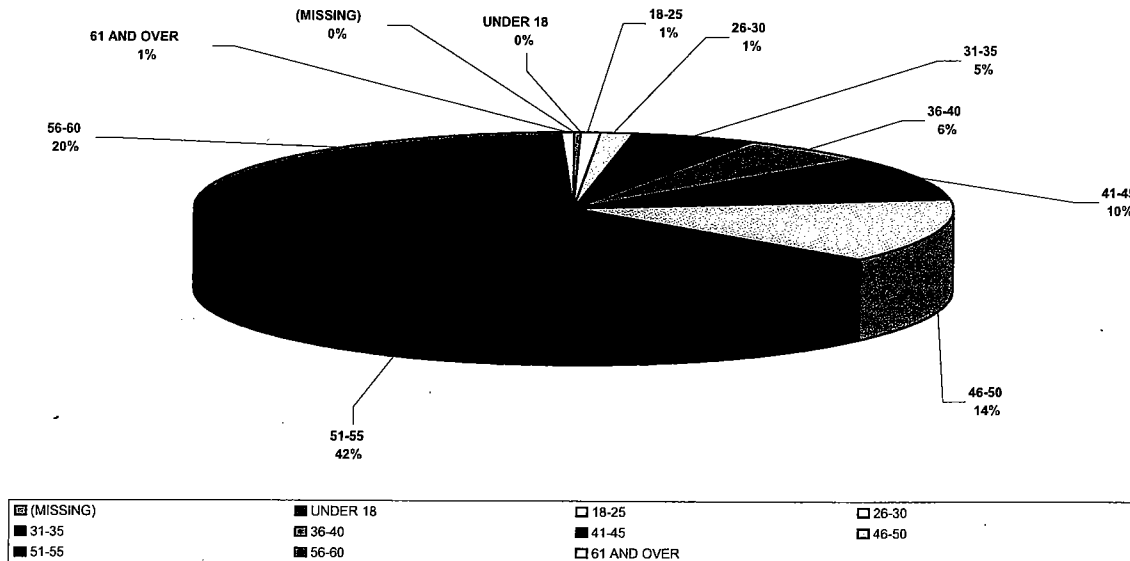
WORKERS' COMPENSATION CLAIMS FILED WITH ACCIDENT DATE FY 2003-2004 BY DEPARTMENT TYPE



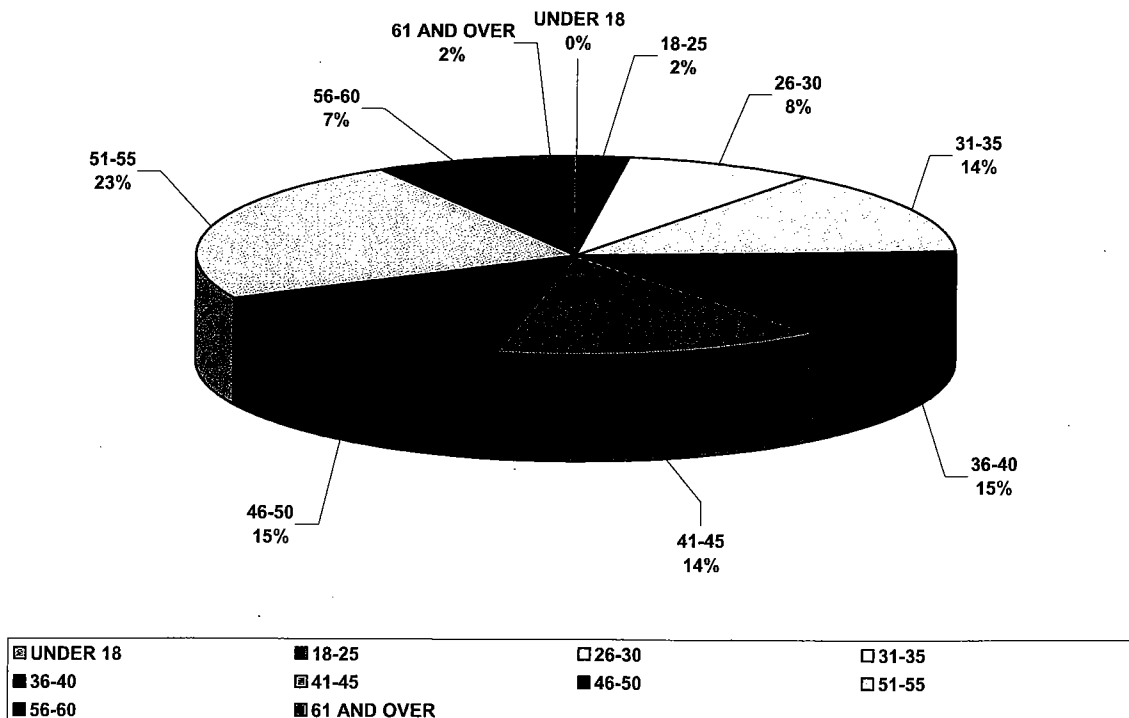
■ CLASS 4: SAFETY DEPARTMENT	■ CLASS 4: NON-SAFETY DEPARTMENT
□ CLASS 3: MODERATE DEPARTMENT	□ CLASS 2: LIGHT DEPARTMENT

- 2) Relationship between age at time of injury and workers' compensation costs for safety departments:

**FIRE DEPARTMENT WORKERS' COMPENSATION BENEFIT PAYMENTS BY AGE @ DATE OF INJURY
AS PERCENTAGE OF TOTAL PAYOUT FY 2003-2004**



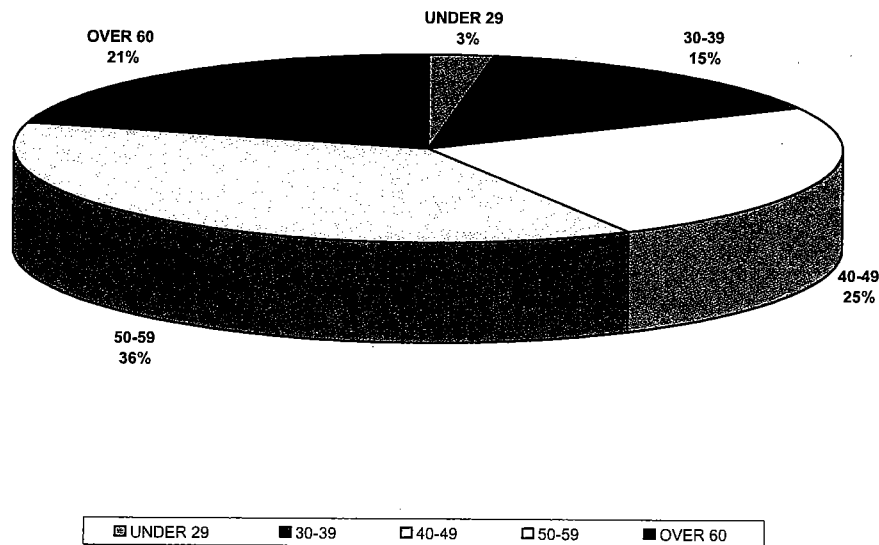
**SHERIFF'S DEPARTMENT WORKERS' COMPENSATION BENEFIT PAYMENTS BY AGE @ DATE OF INJURY
AS PERCENTAGE OF TOTAL PAYOUT FY 2003-2004**



3) In FY 2003-04, 57% of the County's workers' compensation expense was paid on behalf of employees or retirees age 50 or over. In future fiscal years, the percent of the County's total workers' compensation expense paid to claimants age 50 or older will increase. Future increases will be caused by:

- a. The ever increasing number of older County employees and retirees
- b. Legal requirements to pay long-term claims until death
- c. Large number of safety employees filing claims for injuries "presumed" to be job related. Without such presumptions, the medical expense incurred by retired safety employees would likely be paid under a retiree health plan and not the County's workers' compensation program.

**WORKERS' COMPENSATION PAYOUT FOR FY 2003-2004 BENEFITS/ALLOCATED EXPENSES
BY INJURED WORKERS AGE AS OF 1/1/04**



III. CURRENT ENVIRONMENT FOR LC 4850 AND SCDR REFORM

Reform of LC 4850 and SCDR is challenging because of the County's recognition that safety employees subject themselves to injury to protect County citizens. Safety employees' work may involve arduous tasks for which no California Occupational Safety and Health Act standard can be developed. Additionally, for the County to improve its LC 4850 and SCDR results, four issues must be addressed:

1. LC 4850 reforms will require legislative change to the California Labor Code.
2. SCDR reforms will require legislative change to the California Government Code.
3. Current County employees may possess a "vested right" to SCDR benefits as presently structured, and, if so, LC4850 and SCDR reform may only apply to future hires.
4. Memoranda of Understanding may need to be restructured, the timing of which could be a challenge.

Regardless, recent publications have described alleged SCDR abuses in California public entity disability retirement systems. The California Highway Patrol is auditing a number of its SCDRs. In addition to the County of Los Angeles, the County of Orange and the California Department of Personnel Administration are reviewing their SCDR processes.

LC 4850 and SCDR Reform Process

The recommendation included in this report involves complex and sensitive matters. Major policy decisions concerning the number and scope of specific County reforms must be decided before the implementation of a reform package. The CAO suggests the task force [previously recommended in this report] continue the CAO's LC 4850/SCDR analysis, propose a set of specific reforms for the Board of Supervisor's (Board) approval, and develop the plan for the reforms' implementation.

The initial timeline listed below will be modified as unknown or new issues arise during the reform process. The final timeline would be established by the task force.

Three components of the County's LC 4850/SCDR reform process:

1. Analysis Component

This component includes the identification and analysis of major policy decisions and development of a Board approved list of specific LC 4850/SCDR reforms.

- a. By January 18, 2005, provide the Board a report concerning the methodology to be applied to the case-by-case review of open County SCDR cases.
- b. By January 21, 2005, create the County task force required to develop and help implement a Countywide LC 4850/SCDR strategic initiative.
- c. By January 21, 2005, contact California Highway Patrol (CHP) to obtain available information concerning CHP's review of open SCDR cases.
- d. By January 28, 2005, hold the task force's first meeting and begin discussion of potential reforms, issues, assignments, etc.
- e. By March 1, 2005, complete analysis of City of Los Angeles LC 4850 and SCDR processes.
- f. By April 1, 2005, calculate the County cost of LC 4850 and SCDRs; including incremental difference between SCDRs and regular pensions, surviving spousal expense, corresponding workers' compensation expense, SCDR for employees under age 50 and opportunity costs,
- g. By April 1, 2005, obtain advisement from County Counsel concerning identified legal issues.
- h. By April 1, 2005, obtain Sheriff Department and Fire District recommendations concerning their Return-to-Work programs.
- i. By May 1, 2005, complete analysis of the differences between other California Counties and the County's LC 4850 and SCDR procedures and results.
- j. By May 3, 2005, obtain Board approval of specific LC 4850/SCDR reforms.

2. Legislative Component

The legislative timeline will be influenced by:

- the 2005 legislative schedule;
- commitment of other California public entities to a reform effort;
- decision whether or not a reform bill would apply Statewide or only for a County of the First Class;
- selection of legislator to sponsor a reform bill; and,
- the likelihood a potential reform bill would be effective either January 1, 2006 or January 1, 2007.

- a) By January 21, 2005, contact Governor Schwarzenegger's office to ascertain interest in a LC 4850/SCDR reform initiative.
- b) On January 24, 2005, County representatives attend State of California legislative hearing concerning public entity pensions (Speier).
- c) By January 31, 2005, ascertain interest of other California public entities in a LC 4850/SCDR reform effort.
- d) By March 1, 2005, develop coalition of California public entities to champion potential reforms.
- e) By May 3, 2005, provide County's legislative delegation with a list of County proposed reforms.
- f) By May 13, 2005, develop methodology to obtain passing of desired reform legislation.

3. **Memoranda of Understanding (MOU) Component**

The time required to meet with County unions and resolve issues will be determined by the number and scope of the LC 4850/SCDR reforms selected. The County, SEIU Local 660 and County Coalition of Unions will meet regularly to review the elements of LC 4850/SCDR reform, consult regarding the reforms' implementation and make advisory recommendations to the Chief Administrative Officer concerning the reforms.

Two additional influences upon the MOU timeline will be:

- 1) the two current County fringe MOUs do not expire until late 2006; and,
- 2) whether or not selected reforms' will apply to current employees and new hires.

By May 13, 2005, CAO staff will complete its analysis of current MOUs to ascertain the most productive method to begin a dialogue concerning LC 4850 and SCDR reform.



CHIEF ADMINISTRATIVE OFFICE

**SECOND RESPONSE TO THE LOS ANGELES COUNTY
CITIZENS' ECONOMY AND EFFICIENCY COMMISSION'S
STUDY ENTITLED,**

***ADDRESSING WORKERS' COMPENSATION FRAUD
IN LOS ANGELES COUNTY, SEPTEMBER 2004***

JANUARY 2005

**SECOND RESPONSE TO THE COUNTY OF LOS ANGELES CITIZENS'
ECONOMY AND EFFICIENCY COMMISSION STUDY ENTITLED, *ADDRESSING
WORKERS' COMPENSATION FRAUD IN LOS ANGELES COUNTY,*
SEPTEMBER 2004**

The CAO appreciates the interest and recommendations of the County of Los Angeles Citizens' Economy and Efficiency Commission (Commission) concerning the County's workers' compensation program.

The Commission's September, 2004, study fairly stated that all stakeholders in the County's workers' compensation program must fully discharge their responsibilities to the program in their capacity as County managers, supervisors, employees, retirees, medical providers, contractors and legal representatives.

The CAO believes that to assure a successful County workers' compensation program, all program stakeholders must not only guard against workers' compensation fraud, but endeavor to identify the causes of their workers' compensation claims. Accordingly, the CAO will assist departments develop, implement and monitor Loss Control and Prevention Plans to mitigate claims.

Second Response

To facilitate review, the CAO combined the Commission's 46 recommendations into four groups:

- Group One: Of the Commission's 46 recommendations, 22, or 48%, are such an integral component of the County's program they will not be commented upon in this second report. They are recommendations 4, 5, 6, 7, 10, 15, 17, 18, 20, 21, 22, 26, 29, 32, 36, 37, 38, 39, 40, 42, 44, and 45.
- Group Two: Three Commission recommendations will not be accepted by the CAO because of legal issues. They are recommendations 12, 34, and 46.
- Group Three: Six recommendations require further review to obtain CAO concurrence. They are recommendations 9, 23, 27, 30, 31, and 33.

Each of the CAO's responses to these six recommendations include responsible party(ies), estimated completion date, and monitoring method, if accepted and implemented.

- Group Four: The remaining 15 Commission recommendations were partially implemented, or in the process of implementation, prior to the Commission's study. They are recommendations 1, 2, 3, 8, 11, 13, 14, 16, 19, 24, 25, 28, 35, 41, and 43.

Each of the CAO's responses to these 15 recommendations includes responsible party(ies), estimated completion date(s), and monitoring method.

Group Three

Six recommendations require further review to obtain CAO concurrence. They are recommendations 9, 23, 27, 30, 31, and 33.

Recommendation 9: *Direct the Auditor-Controller, in coordination with the County's Risk Manager, on a quarterly basis, distribute workers' compensation fraud and abuse information with the payroll.*

RESPONSE 9

This recommendation requires further analysis that will be completed in 2006.

The CAO concurs to the extent this recommendation is economically cost effective. The cost and expense of including workers' compensation fraud and abuse information with payroll checks will be evaluated with the assistance of Auditor-Controller. Alternative methods of information distribution will also be evaluated.

Responsible Party: CAO – Risk Management Branch and Department of Auditor-Controller	
Start Date: 07/2005	Estimated Completion Date: 12/2005
Monitoring Method/Milestones: N/A	

Recommendation 23: *Direct that the Department of Human Resources conduct a staffing review to consider the following:*

- a. *Whether an increase in the staffing level of the Special Investigation Unit above the current 1 full-time employee and 1 part time employee would result in increased savings to the County.*
- b. *Whether it would be beneficial from a cost standpoint to fund a County dedicated investigator(s) within the District Attorney's Office.*
- c. *Whether it would be beneficial to join other self-insured employer's (e.g., MTA, LAUSD, the City of Los Angeles, etc.) to co-fund dedicated investigators to investigate exclusively workers' compensation claims for the participating public agencies.*

RESPONSE 23

This recommendation, because of its fiscal impact, requires further study. The CAO will complete a staffing review, recommendation 23(a), in 2005. If additional

positions are recommended and authorized, DHR will provide classification expertise to allocate these positions.

Recommendations 23(b) and 23(c) require additional study for the following reasons:

Labor Code Section 62.5 and 62.6 require the California Department of Industrial Relations to levy a number of surcharges and assessments between insured employers and self-insured employers. In January of 2004, the County paid \$711,603.57 for the FY 2004 California Department of Insurance Fraud Investigation Assessment. Funds derived from these assessments are expended for the investigation and prosecution of workers' compensation fraud and the willful failure to secure payment for workers' compensation benefits. Any additional funding should to be evaluated to limit duplication and ensure fiscal responsibility.

Responsible Party: CAO – Risk Management Branch	
Plan: Evaluate current staffing	
Start Date: 01/2005	Estimated Completion Date: 07/2005
Monitoring Method/Milestones: Increase in the number of suspected potential fraud filings, arrests, convictions, restitutions, reimbursements, and cost avoidance data.	
The CAO will study items (b) and (c) starting 01/2006	

Recommendation 27: *Direct that the County's Risk Manager monitor program areas, such as Continuation of Pay (COP), to develop trends involving potential increases or decreases in workers' compensation program costs.*

RESPONSE 27

This recommendation currently cannot be implemented and requires further study.

An employee's Continuation of Pay from payroll, or other benefit programs such as STD/LTD, LACERA disability, Family Medical Leave Act, vacation pay, part-pay sick leave, sick leave, and administrative leave provisions, are part of CWTAPPS record keeping. The CWTAPPS data can be extracted on a "field or code" basis. However, presently, there is no ongoing system analysis for correlating employee use of salary continuation programs and any subsequent employee workers' compensation claims. Information from CWTAPPS has approximately a two week delay due to the payroll cycle. The benefit utilization data have not been collectively gathered or developed to facilitate their application for predictive modeling to determination future program costs, program eligibility coordination, or the cost of future liabilities.

Responsible Party: CAO – Risk Management Branch	
Start Date: 06/2005	Estimated Completion Date: 06/2006
Monitoring Method/Milestones: Progress Reports and Technology Implementation	

Recommendation 30: *Direct the County Counsel to investigate whether the legal right to receive State data extends to the County's anti-fraud program. If not, direct the Chief Administrative Officer to express the desire of the Board to the County Advocates to pursue legislation that would enable the workers' compensation anti-fraud program to receive such data.*

RESPONSE 30

This recommendation requires further review.

The anti-fraud programs of self insureds, such as the County, or insurance carriers are not included in the California Unemployment Insurance Code or the California Insurance Code; and, therefore, are ineligible from receiving confidential payroll data from the California Employment Development Department (EDD) for the purpose of investigating workers' compensation claims. The County DA and the California Department of Insurance (DOI) are eligible to request and receive such data for their pursuit of workers' compensation fraud investigation. When information developed by the County is provided to its DA and/or the DOI, the confidential data can be obtained and utilized by the DA or the DOI in their further development and prosecution of County fraud cases.

The CAO is reviewing the feasibility and advisability of this recommendation. Current California law, however, limits the release of confidential payroll information to the DA or the DOI. Current law may already strike a proper balance between the preservation of confidentiality and the ability to adequately investigate workers' compensation fraud.

Another limitation within current California law may be the administrative burden this recommendation may place on EDD if their data were provided to all employers and insurance carriers where the suspicion of fraud may possess little basis in fact. County DA or DOI screening may indeed be appropriate to prevent EDD from being inundated with requests possessing little or no merit.

Responsible Party: CAO – Risk Management Branch
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Start Date: 06/05

Estimated Completion Date: 12/2005

Monitoring Method/Milestones: Progress Reports

Recommendation 31: *Direct that the County's Risk Manager review the current usage of predictive modeling with the objective of understanding its application to the identification of fraud and abuse and ascertain whether such an approach would make a cost effective contribution to its anti-fraud program.*

RESPONSE 31

The CAO concurs with this recommendation which was implemented prior to the Commission's report.

As advances occur in data mining techniques, those technologies are reviewed by the CAO to ascertain effectiveness in detecting workers' compensation fraud. However, no single predictive model or technology currently exists that can be considered "the answer" for detecting and deterring workers' compensation fraud.

Please see Response 24.

Responsible Party: CAO – Risk Management Branch		
Start Date:	Continuous	Estimated Completion Date: N/A
Monitoring Method/Milestones: N/A		

Recommendation 33: *Direct the Chief Administrative Officer to coordinate the group health program and the workers' compensation program.*

RESPONSE 33

This recommendation requires further analysis.

Since early 2004, the County has been discussing with representatives of the SEIU Safety Committee the feasibility of a pilot program that integrates work-related health care benefits for active employees and regular group health benefits. According to a recent Rand Corporation's Institute for Civil Justice publication, *Assessment of 24-hour Care Options for California*, the County faces two pivotal structural barriers to successful coordination of such programs:

1. The health plan offered to this represented group is a fully insured product leaving little latitude in the County's ability to effectively manage claims processing. This does not allow the coordination of claims processing for a dual delivery system.
2. The work-related injuries or illnesses of the SEIU represented employees may not be significantly large enough to observe any measurable outcomes, even if the programs were to be combined.

Since the Medical Provider Network (MPN) arises from the existing workers' compensation Preferred Provider Organizations (PPOs) it will provide medical services at reduced rates for workers' compensation. The MPN appears to offer the most cost effective program for the Coalition and non-represented active employee health plans.

The County offers and pays for retiree health insurance as a retirement benefit for eligible employees. In addition to workers' compensation, the County, through LACERA, also provides fully paid medical care for retired safety employees on a medical disability. Preliminary review indicates the potential exists to reduce overall County costs based upon integration of medical services for this employee population. Further exploration of the programs may determine the feasibility and extent of cost savings through the coordination of medical services. This is

County costs based upon integration of medical services for this employee population. Further exploration of the programs may determine the feasibility and extent of cost savings through the coordination of medical services. This is especially true with regard to capitated retiree health care plans (where a monthly premium is paid regardless of utilization or cause of injury), and the potential cost savings of the new workers' compensation MPN. Since these programs are administratively disconnected, data would be shared to prevent any erroneous billing and to provide the most cost effective delivery of medical services.

Responsible Party: CAO – Risk Management Branch	
Start Date: 01/2006	Estimated Completion Date: 06/2006
Monitoring Method/Milestones: Pending implementation of MPNs, work with LACERA to share data and to collaboratively develop approach to identify the most cost effective means of an integrated delivery system for retired persons.	

Group Four

The remaining 15 Commission recommendations were partially implemented or in the process of implementation prior to the Commission's study. They are recommendations 1, 2, 3, 8, 11, 13, 14, 16, 19, 24, 25, 28, 35, 41, and 43.

Recommendation 1: *Direct that the Department of Human Resources review the County's hiring practices to ensure that all possible steps have been taken, including possible testing for illegal drugs and alcohol, to identify those applicants that may be predisposed to engage in unsafe work practices.*

RESPONSE 1

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

All hiring assessments must have a job nexus. Countywide, various assessments are currently in place, such as a background check program that investigates sensitive positions and precludes certain convictions for certain classes. Also, within the promotional process, an "Appraisal of Promotability" must be included that requires assessment of character.

Arguably, applicants may be predisposed to engage in unsafe work practices due to poor judgment or cognitive impairment. The latter can be due to multiple causes which include use of prescription medication, over-the-counter medications, or illegal substances, and a wide range of medical conditions.

A job-related pre-placement medical examination is provided for County positions that include psychological testing for safety or sensitive positions in order to ensure that the applicant's personality and character logical traits are suitable to the position's duties and functions. Additionally, two existing Countywide programs provide drug and/or alcohol testing: one for individuals carrying commercial driver's licenses and operating certain kinds of large vehicles; and, a second program that covers safety sensitive positions.

improve examination effectiveness in assessing applicant fitness for duty, decrease examination expense and ensure compliance with applicable federal and state regulations.

Responsible Party: CAO – Risk Management Branch	
Relevant Milestones and Target Dates:	
<i>-Issuance of new RFP for contract medical services</i>	<i>-May 2005</i>
<i>-Issuance of new clinical practice guidelines for contractors</i>	<i>-November 2005</i>
<i>-Board approval of new medical service contracts</i>	<i>-November 2005</i>
<i>-New contracts and protocols implemented</i>	<i>-January 2006</i>
Monitoring Method/Milestones: Quarterly progress reports provided to Rocky A. Armfield	

By January 31, 2006, the CAO will also evaluate Countywide employee and pre-placement drug/alcohol testing programs and propose program modifications to improve effectiveness in identifying substance abuse/misuse and preventing associated accidents, injuries and workers' compensation claims. CAO staff will investigate current legal issues and case law associated with employee drug/alcohol testing; survey other public employers for current employee drug/alcohol testing policy, practices, and results; identify MOU implications and steps necessary in order to pursue any modifications to Countywide programs; and estimate cost(s) of any recommended modifications.

Responsible Party: CAO – Risk Management Branch	
Relevant Milestones and Target Dates:	
<i>-Review relevant literature, legal issues</i>	<i>-March 2005</i>
<i>-Survey other public employer programs</i>	<i>-September 2005</i>
<i>-Propose program modifications</i>	<i>-January 31, 2006</i>
<i>-Consult with County Counsel on proposals</i>	<i>-February 2006</i>
<i>-Consult with Employee Relations on proposals</i>	<i>-March 2006</i>
<i>-Meet and Confer/Consult with Unions</i>	<i>-April 2006</i>
<i>-Submit proposals to Board</i>	<i>-June 2006</i>
Monitoring Method/Milestones: Quarterly progress reports provided to Rocky A. Armfield	

Recommendation 2: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager, train all employees on the proper use and application of workers' compensation benefits, the prevention and detection of fraud and abuse within the workers' compensation system, and the impact of fraud on the County and each County employee.*

RESPONSE 2

The CAO concurs with this recommendation. This recommendation was partially implemented prior to the Commission's report, but requires additional effort.

The CAO trains departmental Return-to-Work Coordinators and advises departmental Personnel Officers of their responsibility to notify all new County employees of employee rights and obligations under California workers' compensation law. This notification describes the penalties associated with the commission of workers' compensation fraud. County departments post notices advising employees of their rights and responsibilities when a work-related injury occurs. These notices contain warning language with respect to the commission of workers' compensation fraud.

The Department of Human Resources (DHR) New Employee Orientation Program currently includes a 30-minute module on Employee Health and Safety. The CAO is working with DHR to ensure the new employee orientation program includes basic information concerning employee's rights and responsibilities when injured on the job and prevention of workers' compensation fraud.

The CAO and DHR will also develop a training program for all employees emphasizing safety, return-to-work, the proper use and application of worker's compensation benefits, the prevention and detection of fraud and abuse within the workers' compensation system, and the impact of fraud on the County and its employees. DHR will meet with CAO subject matter experts to define the training needs, appropriate curricula, training delivery methods and evaluation procedures.

Responsible Party: CAO – Risk Management Branch and Department of Human Resources (OED)	
Start Date: 07/05	Estimated Completion Date: TBD
Monitoring Method/Milestones: <ul style="list-style-type: none"> • Determine training objectives • Determine scope of training • Determine responsible parties with respect to performing training • Determine cost and potential funding sources 	

Recommendation 3: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager, expand training of managers and supervisors on workers' compensation issues so that they can help identify and solve problems and understand how injuries decrease productivity, add to workers' compensation costs, and impact programs.*

RESPONSE 3

The CAO concurs with this recommendation. This recommendation was partially implemented prior to the Commission's report, but requires additional effort.

In 2003, the Los Angeles County Board of Supervisors directed each department to appoint a Risk Management Coordinator. The Risk Management Coordinators attend quarterly meetings that emphasize liability, workers' compensation, and safety issues. The department Risk Management Coordinators are becoming the focal point in coordinating quarterly department workers' compensation claim review

meetings. During these workers' compensation claim reviews, risk management, return-to-work, and workers' compensation claim problems are identified, analyzed, and mitigated with an emphasis on improving claim outcomes.

The CAO conducts quarterly meetings of, and training for, department Return-To-Work Coordinators. Additionally, the CAO provides data and training to department managers and supervisors with respect to workers' compensation costs, safety, return-to-work, and workers' compensation claims administration.

The CAO and DHR will develop a training program for managers and supervisors on workers' compensation issues to assist managers and supervisors to identify and solve problems and understand how injuries decrease productivity. DHR will meet with CAO subject matter experts to define the training needs, appropriate curricula, training delivery methods, and evaluation procedures.

Responsible Party: CAO – Risk Management Branch and Department of Human Resources (OED)	
Start Date: 07/2005	Estimated Completion Date: TBD
Monitoring Method/Milestones: <ul style="list-style-type: none"> • Determine training objectives • Determine scope of training • Determine elements of training • Determine responsible parties with respect to performing training • Determine cost and potential funding sources 	

Recommendation 8: *Direct the Public Affairs Office to expand how it displays and publicizes workers' compensation fraud and abuse posters.*

RESPONSE 8

This recommendation can not be fully implemented.

CAO Risk Management will distribute to all Personnel Officers an annual notice explaining the procedure to obtain workers' compensation fraud and abuse posters.

Responsible Party: CAO – Risk Management Branch	
Start Date: 02/2005	Estimated Completion Date: Annual activity
Monitoring Method/Milestones: Dates of distribution of notices	

Recommendation 11: *Direct that the Department of Human Resources, in coordination with the County's Risk Manager, provide the County's workers' compensation policy to all new hires and require that they sign an acknowledgement that they have read and understood the policy. The policy should include, but not necessarily be limited to, the following:*

- a. *Basic information on how the State's Workers' Compensation Program works.*

- b. *The procedures to be followed when treating an injured employee including, if applicable, telling injured employees which health care providers have been selected for use and why they have been chosen.*
- c. *A statement of how and to whom industrial injuries are to be reported.*
- d. *An explanation of the employee's obligations and the rules to be followed while receiving workers' compensation benefits.*
- e. *A policy on the return-to-work program together with a specific statement emphasizing the fact that work will be found for injured workers as soon as they can return to transitional duty.*

RESPONSE 11

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

As previously stated, new employees are informed of their rights and obligations under workers' compensation laws in compliance with the requirements established by the California Division of Workers' Compensation. ***Starting July 1, 2005, the CAO, in collaboration with DHR, will begin developing an enhanced information packet for County departments to provide to all new hires.*** In addition, the CAO will recommend County departments establish and maintain procedures ensuring new hires confirm receipt of such information.

The 2004 workers' compensation reforms mandated new processes and communication of information to employees. The information that must be communicated includes a listing of the County's pre-selected medical providers and the procedure for employees to access that care. The employee's obligations under the workers' compensation and return-to-work policies must also be explained.

In collaboration with the staff of other County departments, CAO staff is currently updating the Countywide return-to-work resource manual that communicates the County's workers' compensation processes, return-to-work processes, and employee responsibilities. The manual is targeted for release by April 1, 2005, and will include an inter and intra department employee transfer process. Countywide cooperation between departments may be necessary to facilitate meaningful return-to-work offers for transitional and temporary assignments; and, subsequently, effective placement of employees with permanent work restrictions.

During 2005, the CAO will recommend that the Board of Supervisors require all departments' active participation in support of a Countywide mandated return-to-work program. Compliance with the program will result in timely employment offers to injured workers as soon as the employee is capable of assuming transitional duties. It is also envisioned that an offer of return-to work, congruent with employee's permanent medical condition, will be mandated unless exceptional circumstances exist.

Responsible Party: CAO – Risk Management Branch and Department of Human Resources

Plan: Enhance the written notice, as described in Labor Code Section 3551, to new employees by 1/1/2006

Start Date: 07/2005

Estimated Completion Date: 07/2006

Monitoring Method/Milestones:

- Draft completed by 10/1/2005
- Submit to Employee Relations by 10/1/2005
- Submit for approval by the Administrative Director of the Division of Workers' Compensation by 12/1/2005
- Determine production and distribution cost and methods (4/1/2006)
- Determine funding source 6/1/2006
- Countywide distribution (7/1/2006)

Recommendation 13: Direct that the Auditor-Controller place a statement above the endorsement on workers' compensation checks certifying that the recipient is entitled to the disability payment.

RESPONSE 13

This recommendation was being implemented prior to the Commission's report, and is targeted for completion by January 1, 2005.

The passage of SBX4 2 (Speier) mandates self-insured employers to provide the following notice, in both English and Spanish, to a workers' compensation claimant on, or with, the claimant's check for temporary disability benefits:

WARNING: You are required to report to your employer or the insurance company any money that you earned for work during the time covered by this check, and before cashing this check. If you do not follow these rules, you may be in violation of the law and the penalty may be jail or prison, a fine, and loss of benefits.

ADVERTENCIA: Es necesario que usted le avise a su patron o a su compania de seguro todo dinero que usted ha ganado por trabajar, durante el tiempo cubierto por este cheque, y antes de cambiar este cheque. Si usted no sigue estos reglamentos, usted puede estar en violacion de la ley y el castigo podria ser carcel o prision, una multa, y perdida de beneficios.

The CAO and Auditor-Controller will ensure compliance with SBX4 2.

Responsible Party: *CAO – Risk Management Branch and Department of Auditor-Controller*

Start Date: *This recommendation was being reviewed and developed prior to The CEEC study.*

Estimated Completion Date: *1/1/2005*

Fraud warning language will appear on all temporary disability and vocation maintenance allowance warrant pay stubs.

Monitoring Method/Milestones: *N/A*

Recommendation 14: *Direct the County's Risk Manager to develop and implement measures to ensure that the County maintains contact and a positive relationship with the injured worker, even in situations that may seem suspicious. These measures should include a requirement that employees receiving workers' compensation benefits should also be required to periodically sign forms, in person, acknowledging that they have been informed of the rules and that they are accurately representing the facts that entitle them to the benefits that they are receiving.*

RESPONSE 14

Much of this recommendation was implemented prior to the Commission's report.

The CAO supports this recommendation to the extent it is cost effective and medically appropriate.

An interactive process between the employee and the first line supervisor is mandated by the Americans with Disabilities Act and the Department of Fair Employment and Housing. CAO maintains an interactive model as part of its return-to-work process and standards. Presently, the County's mandated interactive communication relies solely upon the relationship between the employee and the first line supervisor, with some oversight by department Return-to-Work Coordinators. Log records maintained by departments are encouraged; however, a Countywide monitoring system for compliance has not been established. The staffing ratio for each department's Return-to-Work Coordinator to the number of department open cases dramatically varies between departments. The County has not assessed department Return-to-Work Coordinator staffing ratio adequacy based upon workers' compensation claim levels.

A systematic approach to communicating with employees, about their welfare and medical condition status while out on workers' compensation, is vital to an effective return-to-work program. Department communication networks can be developed to support department return-to-work efforts and monitoring of the required interactive process. The system would improve communication throughout the employee's disability period. When fully developed, such systems will assist the supervisor and

the injured worker by prompting interaction through notification and follow-up; providing medical access information for STD/LTD notification; and, requiring the employee to visit the worksite, as medically appropriate, during the disability period.

Responsible Party: Return to Work Unit		
Start Date:	In Progress	Estimated Completion Date: 12/2005
Monitoring Method/Milestones: Improve Interactive process through revision of the RTW manual to be published April 1, 2005 and subsequently request approval by the Board of Supervisors for mandatory RTW provisions once fully developed.		

Recommendation 16: *Direct the Chief Administrative Officer to develop and implement countywide procedures that increase the attention being paid to any complaints or concerns over working conditions, including an employee safety hotline, and insuring every effort to address these complaints in a timely manner.*

RESPONSE 16

The CAO concurs with this recommendation and was working with departments prior to the Commission's report. The CAO continues to work in conjunction with DHR to increase options for employees to address or report working condition issues. Options being considered include safety suggestion boxes, telephonic safety hotlines, and the use of department safety committees.

Responsible Party: County Departments		
Start Date:	Prior to CEEC study	Estimated Completion Date: N/A
Monitoring Method/Milestones: Evaluations conducted during periodic department needs assessments		

Recommendation 19: *Direct the Auditor-Controller, in coordination with the Chief Administrative Officer and affected departments, to create an annual report on workers' compensation costs that:*

- a. *Analyzes each of the elements of workers' compensation and delineates the County's costs by department.*
- b. *Identifies the amounts expended in workers' compensation as a percent of the salary/employee benefits costs for each department in order that comparisons of these percentages can be made to other similar local, county, and state departments.*
- c. *Identifies the cost changes from year to year.*

RESPONSE 19

The CAO concurs with this recommendation which was in the process of discussion and possible implementation prior to the Commission's report.

The CAO currently generates a number of reports that analyze workers' compensation cost factors and trends. Also, Countywide and department frequency and severity reports are generated and distributed to departments upon demand. Access to the County's workers' compensation computer system (GenComp) is now available to most County departments. The department reports analyze department workers' compensation claim data as a percentage of employee population and salary. Countywide and individual department workers' compensation payout results are trended by fiscal year. The CAO is creating an annual report on workers' compensation costs for FY 2004, and plans to do so for each fiscal year thereafter.

The Countywide dissemination of all department workers' compensation results is new to the County. CAO staff has been discussing implementing such reports with members of the County Guiding Coalition.

<i>Responsible Party: CAO – Risk Management Branch</i>	
<i>Start Date: Prior to CEEC Study</i>	<i>Estimated Completion Date: 02/2005</i>
<i>Monitoring Method/Milestones: Production of Annual Report</i>	

Recommendation 24: *Direct the County's Risk Manager to develop a database for workers' compensation claims that has as its objective the measurement of, among other things, the nature and extent of fraud and abuse in the workers' compensation system.*

RESPONSE 24

The CAO concurs with this recommendation which was being evaluated prior to the Commission's report, but the recommendation requires further analysis.

The CAO reviews available or emerging technologies to enhance the detection, investigation, and prosecution of workers' compensation fraud. Currently, the CAO is working with the Internal Services Department (ISD) to establish the functional requirements of a database system to enhance the identification of workers' compensation provider and medical billing fraud. ISD will provide cost estimates for the development and maintenance of this system. A major architectural component will be the system's ability to interface with a variety of source systems.

The CAO does not concur with the report's assertion that, "prior to the passage of SB 899, the fastest growing area of fraud and abuse in the County workers' compensation system was in the pre-designation of physicians." An employee's right to predesignate a physician continues under the California Labor Code. The CAO is unaware of a study that directly correlates physician predesignation with workers' compensation fraud or abuse.

Responsible Party: CAO – Risk Management Branch and Internal Services Department	
Start Date: 10/2005	Estimated Completion Date: TBD
Monitoring Method/Milestones: <ul style="list-style-type: none"> • Determine Project Team 10/2005 • Define users 10/2005 • Determine functional requirements and data sources 2/2006 • Determine costs and funding source 4/2006 	

Recommendation 25: *Direct the County's Risk Manager to develop uniform reporting requirements for organizations involved in workers' compensation anti-fraud activities that maximize the use of current reporting requirements in an effort to avoid duplication.*

RESPONSE 25

To the extent this recommendation is limited to County departments, the CAO concurs with this recommendation. The CAO will collaborate with the Auditor-Controller to avoid duplicative investigations. This effort will be enhanced by utilizing the Los Angeles County Fraud Tracking System, scheduled for release in March 2005.

Currently, uniform reporting requirements have been established by the California Department of Industrial Relations and California Department of Insurance. These requirements apply to all California workers' compensation stakeholders reporting workers' compensation fraud.

This recommendation will not be implemented as it relates to other "organizations involved in workers' compensation anti-fraud activities" because it exceeds the County and CAO's authority.

Responsible Party: CAO – Risk Management Branch and Department of Auditor-Controller	
Plan: Utilize Los Angeles County Fraud Tracking System	
Start Date: 03/2005	Estimated Completion Date: 06/2005
Monitoring Method/Milestones: Go Live Date	

Recommendation 28: *Direct that the County's Risk Manager utilize investigative management software to assist in the effective utilization of the Special Investigation Unit (SIU) resources.*

RESPONSE 28

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

Please see Responses 24 and 25.

Recommendation 35: *Ensure that management devotes an appropriate level of attention to the issues of workers' compensation fraud and abuse by making compliance with the overall strategy and cost reduction objectives a part of the department heads performance review.*

RESPONSE 35

The CAO concurs with this recommendation which was being analyzed prior to the Commission's reports.

Contained in the CAO's 2003 *Review of the County's Los Angeles Workers' Compensation System* was a recommendation, number 17, to "Challenge department managers and supervisors by including the management of workers' compensation and liability claims as a MAPP goal. By establishing goals toward reduction in the frequency and severity of claims, departments begin to manage their results." To assist in implementation of the CAO's recommendation, the CAO is working to obtain the County's Guiding Coalition's support of its recommendation.

Responsible Party: <i>CAO – Risk Management Branch, Guiding Coalition, and Departments</i>	
Start Date: <i>Prior to Report</i>	Estimated Completion Date: <i>Continuous</i>
Monitoring Method/Milestones: <ul style="list-style-type: none"> • <i>By June 30, 2005, develop an orientation program for Department Heads, their Chief Deputies and Risk Management Coordinators regarding their roles in Loss Control and Prevention Plans and Corrective Action Plans</i> • <i>By June 30, 2005, engage executive management to articulate, publicize, and demonstrate a personal commitment to 1) claims and loss control policies that reduce workers' compensation claims; and 2) the deference, detention, and prosecution of workers' compensation fraud and abuse.</i> 	

Recommendation 41: *Direct the Chief Administrative Officer to pursue increased coordination among the investigative organizations of the County, the MTA, the City of Los Angeles, the District Attorney, the California Department of Insurance Fraud Bureau, and other appropriate agencies, possibly through the creation of a coordinating body, in order to maximize the effective use of scarce resources, to identify fraud detection methodologies and to seek mutual assistance.*

RESPONSE 41

The CAO concurs with this recommendation which was partially implemented prior to the Commission's report.

Beginning 2003 and continuing in 2004, CAO staff began a dialogue with the risk managers of the Metropolitan Transportation Authority, City of Los Angeles, and

Los Angeles United School District to discuss mutual issues, problems, and opportunities. Initial meetings and discussions have proven beneficial and positive. Cooperation concerning the group purchase of workers' compensation services and the possible mutual ownership of an insuring organization has developed. As a group, the risk managers of these Los Angeles area public entities plan to meet again in 2005.

Responsible Party: CAO – Risk Management Branch	
Start Date: Prior to Report	Estimated Completion Date: Continuous
Monitoring Method/Milestones: Include update in annual Risk Management Report	

Recommendation 43: *Direct County departments to investigate all accidents involving their employees using a Departmental Accident Review Team.*

RESPONSE 43

The CAO concurs with this recommendation and was in the process of developing department Accident Review Committee material prior to the Commission's report.

Sample agendas for departmental risk management meetings, including an item to review accidents, have been distributed to all County department Risk Management Coordinators. The CAO will develop a risk management bulletin, to be distributed to all departments, explaining the value of having all accidents reviewed by a departmental Accident Review Committee or Team.

Responsible Party: CAO – Risk Management Branch	
Start Date: 1/2005	Estimated Completion Date: 3/2005
Monitoring Method/Milestones: Distribution of bulletin to Personnel Officers, Risk Management Coordinators and Safety Coordinators	